

Workers' Compensation Programs for review, or if more than one claim has been filed with the Secretary of Labor by the same claimant, such claims shall be merged and processed with the first claim filed with the Office of Workers' Compensation Programs.

§ 410.706 Effect of the Social Security Administration determination of entitlement.

Under section 435 of the BLBRA of 1977 a determination of entitlement made by the Social Security Administration under this subpart G is binding on the Office of Workers' Compensation Programs as an initial determination of eligibility.

§ 410.707 Hearings and appeals.

The review of any determination made by the Social Security Administration of a claim under this subpart will be made by the Office of Workers' Compensation Programs. If the Social Security Administration does not approve the claim following its review under this subpart, the claim will be referred to the Office of Worker's Compensation Programs, and the Office of Workers' Compensation Programs will automatically review the claim. The Office of Workers' Compensation Programs will provide an opportunity for the claimant to submit additional evidence if it is needed to approve the claim. See § 410.704(e)(2) of this subpart. If the Social Security Administration approves the claim but the claimant disagrees with any part of the Social Security Administration's determination, he or she may request the Office of Workers' Compensation Programs to review the Social Security Administration's determination. See § 410.704 (e)(1) of this subpart.

PART 411—The Ticket to Work and Self-Sufficiency Program

Subpart A—Introduction

Sec.

411.100 Scope.

411.105 What is the purpose of the Ticket to Work program?

411.110 How is the Ticket to Work program implemented?

411.115 Definitions of terms used in this part.

Subpart B—Tickets Under the Ticket to Work Program

411.120 What is a ticket under the Ticket to Work program?

411.125 Who is eligible to receive a ticket under the Ticket to Work program?

411.130 How will SSA distribute tickets under the Ticket to Work program?

411.135 What do I do when I receive a ticket?

411.140 When can I assign my ticket and how?

411.145 Once my ticket has been assigned to an EN or State VR agency, can it be taken out of assignment?

411.150 Can I reassign my ticket to a different EN or the State VR agency?

411.155 When does my ticket terminate?

Subpart C—Suspension of Continuing Disability Reviews for Beneficiaries Who are Using a Ticket

INTRODUCTION

411.160 What does this subpart do?

411.165 How does being in the Ticket to Work program affect my continuing disability reviews?

411.166 Glossary of terms used in this subpart.

DEFINITION OF USING A TICKET

411.170 When does the period of using a ticket begin?

411.171 When does the period of using a ticket end?

411.175 What if I assign my ticket after a continuing disability review has begun?

GUIDELINES FOR TIMELY PROGRESS TOWARD SELF-SUPPORTING EMPLOYMENT

411.180 What is timely progress toward self-supporting employment?

411.185 How much do I need to earn to be considered to be working?

411.190 How is it determined if I am meeting the timely progress guidelines?

411.191 Table summarizing the guidelines for timely progress toward self-supporting employment.

411.195 How will the PM conduct my 24-month progress review?

411.200 How will the PM conduct my 12-month progress reviews?

411.205 What if I disagree with the PM's decision about whether I am making timely progress toward self-supporting employment?

FAILURE TO MAKE TIMELY PROGRESS

411.210 What happens if I do not make timely progress toward self-supporting employment?

THE EXTENSION PERIOD

- 411.220 What if my ticket is no longer assigned to an EN or State VR agency?
- 411.225 What if I reassign my ticket after the end of the extension period?

Subpart D—Use of One or More Program Managers To Assist in Administration of the Ticket to Work Program

- 411.230 What is a PM?
- 411.235 What qualifications are required of a PM?
- 411.240 What limitations are placed on a PM?
- 411.245 What are a PM's responsibilities under the Ticket to Work program?

EVALUATION OF PROGRAM MANAGER PERFORMANCE

- 411.250 How will SSA evaluate a PM?

Subpart E—Employment Networks

- 411.300 What is an EN?
- 411.305 Who is eligible to be an EN?
- 411.310 How does an entity other than a State VR agency apply to be an EN and who will determine whether an entity qualifies as an EN?
- 411.315 What are the minimum qualifications necessary to be an EN?
- 411.320 What are an EN's responsibilities as a participant in the Ticket to Work program?
- 411.321 Under what conditions will SSA terminate an agreement with an EN due to inadequate performance?
- 411.325 What reporting requirements are placed on an EN as a participant in the Ticket to Work program?
- 411.330 How will SSA evaluate an EN's performance?

Subpart F—State Vocational Rehabilitation Agencies' Participation

PARTICIPATION IN THE TICKET TO WORK PROGRAM

- 411.350 Must a State VR agency participate in the Ticket to Work program?
- 411.355 What payment options does a State VR agency have under the Ticket to Work program?
- 411.360 How does a State VR agency become an EN?
- 411.365 How does a State VR agency notify SSA about its choice of a payment system for use when functioning as an EN?
- 411.370 Does a State VR agency ever have to function as an EN?
- 411.375 Does a State VR agency continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as

amended (29 U.S.C. 720 *et seq.*), when functioning as an EN?

TICKET STATUS

- 411.380 What does a State VR agency do if the State VR agency wants to determine whether a person seeking services has a ticket?
- 411.385 What does a State VR agency do if a beneficiary who is eligible for VR services has a ticket that is available for assignment or reassignment?
- 411.390 What does a State VR agency do if a beneficiary to whom it is already providing services has a ticket that is available for assignment?
- 411.395 Is a State VR agency required to provide periodic reports?

REFERRALS BY EMPLOYMENT NETWORKS TO STATE VR AGENCIES

- 411.400 Can an EN to which a beneficiary's ticket is assigned refer the beneficiary to a State VR agency for services?

AGREEMENTS BETWEEN EMPLOYMENT NETWORKS AND STATE VR AGENCIES

- 411.405 When does an agreement between an EN and the State VR agency have to be in place?
- 411.410 Does each referral from an EN to a State VR agency require its own agreement?
- 411.415 Who will verify the establishment of agreements between ENs and State VR agencies?
- 411.420 What information should be included in an agreement between an EN and a State VR agency?
- 411.425 What should a State VR agency do if it gets an attempted referral from an EN and no agreement has been established between the EN and the State VR agency?
- 411.430 What should the PM do when it is informed that an EN has attempted to make a referral to a State VR agency without an agreement being in place?

RESOLVING DISPUTES ARISING UNDER AGREEMENTS BETWEEN EMPLOYMENT NETWORKS AND STATE VR AGENCIES

- 411.435 How will disputes arising under the agreements between ENs and State VR agencies be resolved?

Subpart G—Requirements for Individual Work Plans

- 411.450 What is an Individual Work Plan?
- 411.455 What is the purpose of an IWP?
- 411.460 Who is responsible for determining what information is contained in the IWP?
- 411.465 What are the minimum requirements for an IWP?

Social Security Administration

Pt. 411

411.470 When does an IWP become effective?

Subpart H—Employment Network Payment Systems

411.500 Definitions of terms used in this subpart.

411.505 How is an EN paid by SSA?

411.510 How is the State VR agency paid under the Ticket to Work program?

411.515 Can the EN change its elected payment system?

411.520 How are beneficiaries whose tickets are assigned to an EN affected by a change in that EN's elected payment system?

411.525 How are the EN payments calculated under each of the two EN payment systems?

411.530 How will the outcome payments be reduced when paid under the outcome-milestone payment system?

411.535 What are the milestones for which an EN can be paid?

411.540 What are the payment amounts for each of the milestones?

411.545 What are the payment amounts for outcome payment months under the outcome-milestone payment system?

411.550 What are the payment amounts for outcome payment months under the outcome payment system?

411.555 Can the EN keep the milestone and outcome payments even if the beneficiary does not achieve all 60 outcome months?

411.560 Is it possible to pay a milestone or outcome payment to more than one EN?

411.565 What happens if two or more ENs qualify for payment on the same ticket but have elected different EN payment systems?

411.570 Can an EN request payment from the beneficiary who assigned a ticket to the EN?

411.575 How does the EN request payment for milestones or outcome payment months achieved by a beneficiary who assigned a ticket to the EN?

411.580 Can an EN receive payments for milestones or outcome payment months that occur before the beneficiary assigns a ticket to the EN?

411.585 Can a State VR agency and an EN both receive payment for serving the same beneficiary?

411.587 Which provider will SSA pay if, with respect to the same ticket, SSA receives a request for payment from an EN or a State VR agency that elected payment under an EN payment system and a request for payment from a State VR agency that elected payment under the cost reimbursement payment system?

411.590 What can an EN do if the EN disagrees with our decision on a payment request?

411.595 What oversight procedures are planned for the EN payment systems?

411.597 Will SSA periodically review the outcome payment system and the outcome-milestone payment system for possible modifications?

Subpart I—Ticket to Work Program Dispute Resolution

DISPUTES BETWEEN BENEFICIARIES AND EMPLOYMENT NETWORKS

411.600 Is there a process for resolving disputes between beneficiaries and ENs that are not State VR agencies?

411.605 What are the responsibilities of the EN that is not a State VR agency regarding the dispute resolution process?

411.610 When should a beneficiary receive information on the procedures for resolving disputes?

411.615 How will a disputed issue be referred to the PM?

411.620 How long does the PM have to recommend a resolution to the dispute?

411.625 Can the beneficiary or the EN that is not a State VR agency request a review of the PM's recommendation?

411.630 Is SSA's decision final?

411.635 Can a beneficiary be represented in the dispute resolution process under the Ticket to Work program?

DISPUTES BETWEEN BENEFICIARIES AND STATE VR AGENCIES

411.640 Do the dispute resolution procedures of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), apply to beneficiaries seeking services from the State VR agency?

DISPUTES BETWEEN EMPLOYMENT NETWORKS AND PROGRAM MANAGERS

411.650 Is there a process for resolving disputes between ENs that are not State VR agencies and PMs, other than disputes on a payment request?

411.655 How will the PM refer the dispute to us?

411.660 Is SSA's decision final?

Subpart J—The Ticket to Work Program and Alternate Participants Under the Programs for Payments for Vocational Rehabilitation Services

411.700 What is an alternate participant?

411.705 Can an alternate participant become an EN?

411.710 How will an alternate participant choose to participate as an EN in the Ticket to Work program?

411.715 If an alternate participant becomes an EN, will beneficiaries for whom an

- employment plan was signed prior to implementation be covered under the Ticket to Work program payment provisions?
- 411.720 If an alternate participant chooses not to become an EN, can it continue to function under the programs for payments for VR services?
- 411.725 If an alternate participant becomes an EN and it has signed employment plans, both as an alternate participant and an EN, how will SSA pay for services provided under each employment plan?
- 411.730 What happens if an alternate participant signed an employment plan with a beneficiary before Ticket to Work program implementation in the State and the required period of substantial gainful activity is not completed by January 1, 2004?

AUTHORITY: Sec. 1148 of the Social Security Act (42 U.S.C. 1320b-19); sec. 101(b)-(e), Pub. L. 106-170, 113 Stat. 1860, 1873 (42 U.S.C. 1320b-19 note).

SOURCE: 66 FR 67420, Dec. 28, 2001, unless otherwise noted.

Subpart A—Introduction

§411.100 Scope.

The regulations in this part 411 relate to the provisions of section 1148 of the Social Security Act which establishes the Ticket to Work and Self-Sufficiency Program (hereafter referred to as the "Ticket to Work program"). The regulations in this part are divided into ten subparts:

- (a) Subpart A explains the scope of this part, explains the purpose and manner of implementation of the Ticket to Work program, and provides definitions of terms used in this part.
- (b) Subpart B contains provisions relating to the ticket under the Ticket to Work program.
- (c) Subpart C contains provisions relating to the suspension of continuing disability reviews for disabled beneficiaries who are considered to be using a ticket.
- (d) Subpart D contains provisions relating to the use of one or more program managers to assist us in the administration of the Ticket to Work program.
- (e) Subpart E contains provisions relating to employment networks in the Ticket to Work program.
- (f) Subpart F contains provisions relating to State vocational rehabilitation

agencies' participation in the Ticket to Work program.

(g) Subpart G contains provisions relating to individual work plans in the Ticket to Work program.

(h) Subpart H contains provisions establishing employment network payment systems.

(i) Subpart I contains provisions that establish a procedure for resolving disputes under the Ticket to Work program.

(j) Subpart J contains provisions explaining how the implementation of the Ticket to Work program affects alternate participants under the programs for payments for vocational rehabilitation services under subpart V of part 404 and subpart V of part 416 of this chapter.

§411.105 What is the purpose of the Ticket to Work program?

The purpose of the Ticket to Work program is to expand the universe of service providers available to individuals who are entitled to Social Security benefits based on disability or eligible for Supplemental Security Income (SSI) benefits based on disability or blindness in obtaining the services necessary to find, enter and retain employment. Expanded employment opportunities for these individuals also will increase the likelihood that these individuals will reduce their dependency on Social Security and SSI cash benefits.

§411.110 How is the Ticket to Work program implemented?

We are implementing the Ticket to Work program in graduated phases at phase-in sites around the country. We are implementing the program at sites on a wide enough scale to allow for a thorough evaluation and ensure full implementation of the program on a timely basis.

§411.115 Definitions of terms used in this part.

As used in this part:

- (a) "*The Act*" means the Social Security Act, as amended.
- (b) "*Commissioner*" means the Commissioner of Social Security.
- (c) "*Cost reimbursement payment system*" means the provisions for payment

Social Security Administration

§411.115

for vocational rehabilitation services under subpart V of part 404 and subpart V of part 416 of this chapter.

(d) “*Disabled beneficiary*” means a title II disability beneficiary or a title XVI disability beneficiary.

(e) “*Employment network*” or “*EN*” means a qualified public or private entity that has entered into an agreement with us to serve under the Ticket to Work program and that assumes responsibility for the coordination and delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries assigning tickets to it. The rules on employment networks are described in subpart E of this part (§§411.300–411.330). A State vocational rehabilitation agency may choose, on a case-by-case basis, to function as an employment network with respect to a beneficiary under the Ticket to Work program. The rules on State vocational rehabilitation agencies’ participation in the Ticket to Work program are described in subpart F of this part (§§411.350–411.435).

(f) “*Employment plan*” means an individual work plan described in paragraph (i) of this section, or an individualized plan for employment described in paragraph (j) of this section. When used in subpart J of this part, “employment plan” also means a “similar document” referred to in §§404.2114(a)(2) and 416.2214(a)(2) of this chapter under which an alternate participant under the programs for payments for vocational rehabilitation services (described in subpart V of part 404 and subpart V of part 416 of this chapter) provides services to a disabled beneficiary under those programs.

(g) “*Federal SSI cash benefits*” means a “Supplemental Security Income benefit under title XVI” based on blindness or disability as described in paragraphs (n) and (r) of this section.

(h) “*I*”, “*my*”, “*you*”, or “*your*” means the disabled beneficiary.

(i) “*Individual work plan*” or “*IWP*” means an employment plan under which an employment network (other than a State vocational rehabilitation agency) provides services to a disabled beneficiary under the Ticket to Work program. An individual work plan must be developed under, and meet the re-

quirements of, the rules in subpart G of this part (§§411.450–411.470).

(j) “*Individualized plan for employment*” or “*IPE*” means an employment plan under which a State vocational rehabilitation agency provides services to individuals with disabilities (including beneficiaries assigning tickets to it under the Ticket to Work program) under a State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*). An individualized plan for employment must be developed under, and meet the requirements of, 34 CFR 361.45 and 361.46.

(k) “*Program manager*” or “*PM*” means an organization in the private or public sector that has entered into a contract with us to assist us in administering the Ticket to Work program. The rules on the use of one or more program managers to assist us in administering the program are described in subpart D of this part (§§411.230–411.250).

(l) “*Social Security disability benefits*” means the benefits described in paragraph (q) of this section.

(m) “*State vocational rehabilitation agency*” or “*State VR agency*” means a State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*). In those States that have one agency that provides VR services to non-blind individuals and another agency that provides services to blind individuals, this term refers to either State agency.

(n) “*Supplemental Security Income benefit under title XVI*” means a cash benefit under section 1611 or 1619(a) of the Act, and does not include a State supplementary payment, administered Federally or otherwise.

(o) “*Ticket*” means a document described in §411.120 which the Commissioner may issue to disabled beneficiaries for participation in the Ticket to Work program.

(p) “*Ticket to Work program*” or “*program*” means the Ticket to Work and Self-Sufficiency Program under section 1148 of the Act.

(q) “*Title II disability beneficiary*” means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 of the Act based on such individual’s disability as defined in section 223(d) of the Act. (See § 404.1505 of this chapter.) An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

(r) “*Title XVI disability beneficiary*” means an individual eligible for Supplemental Security Income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2) of the Act) (see §§ 416.981 and 416.982 of this chapter) or disability (within the meaning of section 1614(a)(3) of the Act) (see § 416.905 of this chapter). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

(s) “*We*” or “*us*” means the Social Security Administration.

Subpart B—Tickets Under the Ticket to Work Program

§ 411.120 What is a ticket under the Ticket to Work program?

(a) A ticket under the Ticket to Work program is a document which provides evidence of the Commissioner’s agreement to pay, under the rules in subpart H of this part, an employment network (EN) or a State VR agency to which a disabled beneficiary’s ticket is assigned, for providing employment services, vocational rehabilitation services, and other support services to the beneficiary.

(b) The ticket is a red, white and blue document approximately 6” by 9” in size. The left side of the document includes the beneficiary’s name, ticket number, claim account number and the date we issued the ticket. The ticket number is 12 characters and comprises the beneficiary’s own social security number, the letters “TW” and a number 1, 2, etc. A number 1 in the last position would signify that this is the first ticket the beneficiary has received, consistent with § 411.125(b).

(c) The right side of the ticket includes the signature of the Commis-

sioner of Social Security, and the following language:

This ticket is issued to you by the Social Security Administration under the Ticket to Work and Self-Sufficiency Program. If you want help in returning to work or going to work for the first time, you may offer this ticket to an Employment Network of your choosing or take it to your State vocational rehabilitation agency for services. If you choose an Employment Network and it agrees to take your ticket, or if you choose your State agency and you qualify for services, these providers can offer you the services you may need to go to work.

An Employment Network provides the services at no cost to you. The Social Security Administration will pay the Employment Network if you assign your ticket to it, and the Employment Network helps you to go to work and complies with other requirements of the Program. An Employment Network serving under the Program has agreed to abide by the rules and regulations of the Program under the terms of its agreement with the Social Security Administration for providing services under the Program. Your State agency can tell you about its rules for getting services.

§ 411.125 Who is eligible to receive a ticket under the Ticket to Work program?

(a) You will be eligible to receive a Ticket to Work in a month in which—

(1) You are age 18 or older and have not attained age 65;

(2)(i)(A) You are a title II disability beneficiary (other than a beneficiary receiving benefit payments under § 404.316(c), § 404.337(c), § 404.352(d), or § 404.1597a of this chapter); and

(B) You are in current pay status for monthly title II cash benefits based on disability (see subpart E of part 404 of this chapter for our rules on non-payment of title II benefits); or

(ii)(A) You are a title XVI disability beneficiary (other than a beneficiary receiving disability or blindness benefit payments under § 416.996 or § 416.1338 of this chapter);

(B) If you are an individual described in § 416.987(a)(1) of this chapter, you are eligible for benefits under title XVI based on disability under the standard for evaluating disability for adults following a redetermination of your eligibility under § 416.987 of this chapter; and

(C) Your monthly Federal cash benefits based on disability or blindness

under title XVI are not suspended (see subpart M of part 416 of this chapter for our rules on suspension of title XVI benefit payments); and

(3) Our records show that—

(i) Your case is not designated as a medical improvement expected diary review case (see §§ 404.1590 and 416.990 of this chapter for what we mean by a medical improvement expected diary review); or

(ii) Your case is designated as a medical improvement expected diary review case, and we have conducted at least one continuing disability review in your case and made a final determination or decision that your disability continues (see subpart J of part 404 or subpart N of part 416 of this chapter for when a determination or decision becomes final).

(b) You will not be eligible to receive more than one ticket during any period during which you are either—

(1) Entitled to title II benefits based on disability (see §§ 404.316(b), 404.337(b) and 404.352(b) of this chapter for when entitlement to title II disability benefits ends); or

(2) Eligible for title XVI benefits based on disability or blindness and your eligibility has not terminated (see subpart M of part 416 of this chapter for our rules on when eligibility for title XVI benefits terminates).

(c) If your entitlement to title II benefits based on disability ends and/or your eligibility for title XVI benefits based on disability or blindness terminates as described in §411.155(b)(1) or (2), you will be eligible to receive a new ticket in a month in which—

(1) Your entitlement to title II benefits based on disability is reinstated under section 223(i) of the Act, or your eligibility for title XVI benefits based on disability or blindness is reinstated under section 1631(p) of the Act; and

(2) You meet the requirements of paragraphs (a)(1) and (2) of this section.

§411.130 How will SSA distribute tickets under the Ticket to Work program?

(a) We will distribute tickets in graduated phases at phase-in sites selected by the Commissioner, to permit a thorough evaluation of the Ticket to Work program and ensure that the most ef-

fective methods are in place for full implementation of the program. (See §411.110.)

(b) We will distribute a ticket to you when we distribute tickets in your State, if you are eligible to receive a ticket under §411.125.

§411.135 What do I do when I receive a ticket?

Your participation in the Ticket to Work program is voluntary. When you receive your ticket, you are free to choose when and whether to assign it (see §411.140 for information on assigning your ticket). If you want to participate in the program, you can take your ticket to any EN you choose or to your State VR agency.

§411.140 When can I assign my ticket and how?

(a) You may assign your ticket only during a month in which you meet the requirements of §411.125(a)(1) and (a)(2). You may assign your ticket to any EN which is serving under the program and is willing to provide you with services, or you may assign your ticket to a State VR agency if you are eligible to receive VR services according to 34 CFR 361.42. You may not assign your ticket to more than one provider of services (i.e. an EN or a State VR agency) at a time. Once you have assigned your ticket to an EN or State VR agency, you may take your ticket out of assignment for any reason under the rules in §411.145(a). Also, you may reassign your ticket under the rules in §411.150.

(b)(1) In determining which EN you want to work with, you may discuss your rehabilitation and employment plans with as many ENs in your area as you wish. You also may discuss your rehabilitation and employment plans with the State VR agency.

(2) You can obtain a list of the approved ENs in your area from the program manager (PM) we have enlisted to assist in the administration of the Ticket to Work program. (See §411.115(k) for a definition of the PM.)

(c) If you choose to work with an EN serving under the program, both you and the EN of your choice need to agree upon an individual work plan (IWP) (see §411.115(i) for a definition of

an IWP). If you choose to work with a State VR agency, you must develop an individualized plan for employment (IPE) and your State VR counselor must agree to the terms of the IPE, according to the requirements established in 34 CFR 361.45 and 361.46. (See §411.115(j) for a definition of an IPE.) The IWP or IPE outlines the services necessary to assist you in achieving your chosen employment goal.

(d) In order for you to assign your ticket to an EN or State VR agency, all of the following requirements must be met:

(1)(i) If you decide to work with an EN, you and a representative of the EN must agree to and sign an IWP; or

(ii) If you decide to work with a State VR agency, you and a representative of the State VR agency must agree to and sign both an IPE and a form that provides the information described in §411.385(a)(1), (2) and (3).

(2) You must be eligible to assign your ticket under the rules in paragraph (a) of this section.

(3) A representative of the EN must submit a copy of the signed IWP to the PM or a representative of the State VR agency must submit the completed and signed form (as described in §411.385(a) and (b)) to the PM.

(4) The PM must receive the copy of the IWP or receive the required form, as appropriate.

(e) If all of the requirements in paragraph (d) of this section are met, we will consider your ticket assigned to the EN or State VR agency. The effective date of the assignment of your ticket will be the first day on which the requirements of paragraphs (d)(1) and (2) of this section are met. See §§411.160 through 411.225 for an explanation of how assigning your ticket may affect medical reviews that we conduct to determine if you are still disabled under our rules.

§411.145 Once my ticket has been assigned to an EN or State VR agency, can it be taken out of assignment?

(a) If you assigned your ticket to an EN or a State VR agency, you may take your ticket out of assignment for any reason. You must notify the PM in writing that you wish to take your ticket out of assignment. The ticket

will be no longer assigned to that EN or State VR agency effective with the first day of the month following the month in which you notify the PM in writing that you wish to take your ticket out of assignment. You may reassign your ticket under the rules in §411.150.

(b) If your EN goes out of business or is no longer approved to participate as an EN in the Ticket to Work program, the PM will take your ticket out of assignment with that EN. The ticket will be no longer assigned to that EN effective on the first day of the month following the month in which the EN goes out of business or is no longer approved to participate in the Ticket to Work program. You will be sent a notice informing you that your ticket is no longer assigned to that EN. In addition, if your EN is no longer willing or able to provide you with services, or if your State VR agency stops providing services to you because you have been determined to be ineligible for VR services under 34 CFR 361.42, the EN or State VR agency may ask the PM to take your ticket out of assignment with that EN or State VR agency. The ticket will be no longer assigned to that EN or State VR agency effective on the first day of the month following the month in which the EN or State VR agency makes a request to the PM that the ticket be taken out of assignment. You will be sent a notice informing you that your ticket is no longer assigned to that EN or State VR agency. You may reassign your ticket under the rules in §411.150.

(c) For information about how taking a ticket out of assignment may affect medical reviews that we conduct to determine if you are still disabled under our rules, see §§411.171(c) and 411.220.

§411.150 Can I reassign my ticket to a different EN or the State VR agency?

(a) Yes. If you previously assigned your ticket and your ticket is no longer assigned (see §411.145) or you wish to change the assignment, you may reassign your ticket, unless you are receiving benefit payments under §404.316(c), §404.337(c), §404.352(d) or §404.1597a of this chapter, or you are receiving disability or blindness benefit

payments under §416.996 or §416.1338 of this chapter (the provisions of paragraph (b)(3) of this section notwithstanding). If you previously assigned your ticket to an EN, you may reassign your ticket to a different EN which is serving under the program and is willing to provide you with services, or you may reassign your ticket to the State VR agency if you are eligible to receive VR services according to 34 CFR 361.42. If you previously assigned your ticket to the State VR agency, you may reassign your ticket to an EN which is serving under the program and is willing to provide you with services or to another State VR agency if you are eligible to receive services according to 34 CFR 361.42.

(b) In order for you to reassign your ticket to an EN or State VR agency, all of the following requirements must be met:

(1) Your ticket must be unassigned. If your ticket is assigned to an EN or a State VR agency, you must first tell the PM in writing that you want to take your ticket out of assignment (see §411.145).

(2)(i) You and a representative of the new EN must agree to and sign a new IWP; or

(ii) If you wish to reassign your ticket to a State VR agency, you and a representative of the State VR agency must agree to and sign both an IPE and a form that provides the information described in §411.385(a)(1), (2) and (3).

(3) You must meet the requirements of §411.125(a)(1) and (2) on or after the day you and a representative of the new EN sign your IWP or you and a representative of the State VR agency sign your IPE and the required form, except if—

(i) Your ticket is not in use (see §411.170 *et seq.*) and the requirements of paragraph (b)(2) of this section are met within 30 days of the effective date your ticket no longer was assigned to the previous EN or State VR agency (see §411.145); or

(ii) Your ticket is in use (see §411.170 *et seq.*) and the requirements of paragraph (b)(2) of this section are met before the end of the 3-month extension period described in §411.220.

(4) A representative of the EN must submit a copy of the signed IWP to the

PM or a representative of the State VR agency must submit the completed and signed form (as described in §411.385(a) and (b)) to the PM.

(5) The PM must receive the copy of the IWP or received the required form, as appropriate.

(c) If all of the requirements in paragraphs (a) and (b) of this section are met, we will consider your ticket reassigned to the new EN or State VR agency. The effective date of the reassignment of your ticket will be the first day on which the requirements of paragraphs (a) and (b)(1), (2) and (3) of this section are met. See §§411.160 through 411.225 for an explanation of how reassigning your ticket may affect medical reviews that we conduct to determine if you are still disabled under our rules.

§411.155 When does my ticket terminate?

(a) Your ticket will terminate if and when you are no longer eligible to participate in the Ticket to Work program. If your ticket terminates, you may not assign or reassign it to an EN or State VR agency. We will not pay an EN (including a State VR agency) for milestones or outcomes achieved in or after the month in which your ticket terminates (see §411.525(c)). Your eligibility to participate in the Ticket to Work program will end, and your ticket will terminate, in the earliest of the following months:

(1) The month in which your entitlement to title II benefits based on disability ends for reasons other than your work activity or earnings, or the month in which your eligibility for benefits under title XVI based on disability or blindness terminates for reasons other than your work activity or earnings, whichever is later;

(2) If you are entitled to widow's or widower's insurance benefits based on disability (see §§404.335 and 404.336 of this chapter), the month in which you attain age 65; or

(3) If you are eligible for benefits under title XVI based on disability or blindness, the month following the month in which you attain age 65.

(b) The rules in paragraph (c) of this section apply in determining when your eligibility to participate in the

Ticket to Work program will end and your ticket will terminate if—

(1) You were not a concurrent title II/ title XVI disability beneficiary, and your entitlement to title II benefits based on disability ends or your eligibility for title XVI benefits based on disability or blindness terminates because of your work activity or earnings; or

(2) You were a concurrent title II/ title XVI disability beneficiary and—

(i) Your entitlement to title II benefits based on disability ends because of work activity or earnings and your eligibility for title XVI benefits based on disability or blindness terminates for any reason; or

(ii) Your eligibility for title XVI benefits based on disability or blindness terminates because of your work activity or earnings and your entitlement to title II benefits based on disability ends for any reason.

(c) For purposes of paragraph (b) of this section, the ticket which you received in connection with the previous period during which you were either entitled to title II benefits based on disability or eligible for title XVI benefits based on disability or blindness (as described in §411.125(b)) will terminate, and your eligibility to participate in the Ticket to Work program based on that ticket will end, in the earliest of the following months:

(1) If we make a final determination or decision that you are not entitled to have title II benefits based on disability reinstated under section 223(i) of the Act or eligible to have title XVI benefits based on disability or blindness reinstated under section 1631(p) of the Act, the month in which we make that determination or decision;

(2) If we make a final determination or decision that you are not entitled to title II benefits based on disability or eligible for title XVI benefits based on disability or blindness after you file an application for benefits, the month in which we make that determination or decision;

(3) The month you attain retirement age (as defined in section 216(l) of the Act);

(4) The month in which you die;

(5) The month in which you become entitled to a title II benefit that is not

based on disability or eligible for a title XVI benefit that is not based on disability or blindness;

(6) The month in which you again become entitled to title II benefits based on disability, or eligible for title XVI benefits based on disability or blindness, based on the filing of an application for such benefits; or

(7) If your entitlement to title II benefits based on disability is reinstated under section 223(i) of the Act, or your eligibility for title XVI benefits based on disability or blindness is reinstated under section 1631(p) of the Act, the month in which you are eligible to receive a new ticket under §411.125(c).

Subpart C—Suspension of Continuing Disability Reviews for Beneficiaries Who Are Using a Ticket

INTRODUCTION

§411.160 What does this subpart do?

(a) This subpart explains our rules about continuing disability reviews for disability beneficiaries who are participating in the Ticket to Work program.

(b) Continuing disability reviews are reviews that we conduct to determine if you are still disabled under our rules (see §§404.1589, 416.989 and 416.989a of this chapter for the rules on when we may conduct continuing disability reviews). For the purposes of this subpart, continuing disability reviews include the medical reviews we conduct to determine if your medical condition has improved (see §§404.1594 and 416.994 of this chapter), but not any review to determine if your disability has ended under §404.1594(d)(5) of this chapter because you have demonstrated your ability to engage in substantial gainful activity (SGA), as defined in §§404.1571–404.1576 of this chapter.

§411.165 How does being in the Ticket to Work program affect my continuing disability reviews?

We periodically review your case to determine if you are still disabled under our rules. However, if you are in the Ticket to Work program, we will not begin a continuing disability review during the period in which you are using a ticket. Sections 411.170 and

Social Security Administration

§411.171

411.171 describe when the period of using a ticket begins and ends. You must meet certain requirements for us to consider you to be using a ticket.

§411.166 Glossary of terms used in this subpart.

(a) *Active participation in your employment plan* means you are engaging in activities outlined in your employment plan on a regular basis and in the approximate time frames specified in the employment plan.

(b) *Extension period* is a period of up to three months during which you may reassign a ticket without being subject to continuing disability reviews. You may be eligible for an extension period if the ticket is in use and no longer assigned to an Employment Network (EN) or State VR agency (see §411.220).

(c) *Inactive status* is a status in which you may place your ticket if you are temporarily unable to participate or not actively participating in your employment plan. You may place a ticket in inactive status only during the initial 24-month period. Months during which your ticket is in inactive status do not count toward the time limitations for making timely progress toward self-supporting employment. You may keep your ticket in inactive status as long as you choose. However, because the ticket is not in use during months in which it is in inactive status, you will be subject to continuing disability reviews during these months.

(d) *Initial 24-month period* means the 24-month period that begins with the month following the month in which you first assigned your ticket. We do not count any month in which the ticket is not assigned to an EN or State VR agency, as described in §411.145, or any month during which the ticket is not in use because it is in inactive status (see §411.190(a)(2)) or because you were determined to be no longer making timely progress toward self-supporting employment under §411.190(a)(3) or §411.205.

(e) *Progress review* means the reviews the program manager (PM) conducts to determine if you are meeting the timely progress guidelines described in these regulations. (See §411.115(k) for a definition of the PM.) The method for conducting the 24-month progress re-

view is explained in §411.195 and the method for conducting 12-month progress reviews is explained in §411.200.

(f) *Timely progress guidelines* means the guidelines we use to determine if you are making timely progress toward self-supporting employment. In general, we determine if you are making timely progress toward self-supporting employment using two distinct criteria with defined time frames. These criteria are active participation in your employment plan during the initial 24-month period and increased work and earnings during subsequent 12-month progress review periods (see §411.180 to §411.190, §411.195 and §411.200).

(g) *12-month progress review period* means the 12-month period that begins either following the end of the initial 24-month period or following the previous 12-month progress review period. We do not count any month during which your ticket is not assigned to an EN or State VR agency, as described in §411.145.

(h) *Using a ticket* means that you have assigned a ticket to an EN or State VR agency and are making timely progress toward self-supporting employment. (See §411.171 for a discussion of when the period of using a ticket ends.)

DEFINITION OF USING A TICKET

§411.170 When does the period of using a ticket begin?

The period of using a ticket begins on the effective date of the assignment of your ticket to an EN or State VR agency under §411.140.

NOTE: If your period of using a ticket ends because you have previously failed to meet the timely progress guidelines under §§411.180 through 411.190, the period of using a ticket will resume if you satisfy the requirements for re-entering in-use status. (See §411.210.)

§411.171 When does the period of using a ticket end?

The period of using a ticket ends with the earliest of the following—

(a) The month before the month in which the ticket terminates as a result of one of the events listed in §411.155;

(b) The day before the effective date of a decision under §411.190; §411.195,

§411.175

§411.200, or §411.205 that you are no longer making timely progress toward self-supporting employment;

(c) The close of the three-month extension period which begins with the first month in which your ticket is no longer assigned to an EN or State VR agency (see §411.145), unless you reassign your ticket within the three-month extension period (see §411.220 for an explanation of the three-month extension period);

(d) The 60th month for which an outcome payment is made to your EN (including a State VR agency) under subpart H of this part; or

(e) If you have assigned your ticket to a State VR agency which selects the cost reimbursement payment system, the 60th month for which an outcome payment would have been made had the State VR agency chosen to serve you as an EN.

§411.175 What if I assign my ticket after a continuing disability review has begun?

(a) If we begin a continuing disability review before the date on which you assign a ticket, you may still assign the ticket and receive services under the Ticket to Work program. However, we will complete the continuing disability review. If in this review we determine that you are no longer disabled, in most cases you will no longer be eligible to receive benefit payments. However, if you assigned your ticket before we determined that you are no longer disabled, in certain circumstances you may continue to receive benefit payments (see §§404.316(c), 404.337(c), 404.352(d), and 416.1338 of this chapter). If you appeal the decision that you are no longer disabled, you may also choose to have your benefits continued pending reconsideration and/or a hearing before an administrative law judge on the cessation determination (see §§404.1597a and 416.996 of this chapter).

(b) The date on which we begin the continuing disability review is the date on the notice we send you that tells you that we are beginning to review your disability case.

20 CFR Ch. III (4–1–04 Edition)

GUIDELINES FOR TIMELY PROGRESS TOWARD SELF-SUPPORTING EMPLOYMENT

§411.180 What is timely progress toward self-supporting employment?

(a) *General.* The purpose of the Ticket to Work program is to provide you with the services and supports you need to work and reduce or eliminate your dependence on Social Security disability benefits and/or SSI benefits based on disability or blindness. We consider you to be making timely progress toward self-supporting employment when you show an increasing ability to work at levels which will reduce or eliminate your dependence on these benefits.

(b) *Definitions.* As used in this subpart—

(1) *Initial 24-month period* means the 24-month period that begins with the month following the month in which you first assigned your ticket. (See §§411.220(e) and 411.225(c) for when a new initial 24-month period may be established for you.) We do not count any month during which the ticket is not assigned to an EN or State VR agency, as described in §411.145, or any month during which the ticket is not in use because it is in inactive status (see §411.190(a)(2)) or because you were determined to be no longer making timely progress toward self-supporting employment under §411.190(a)(3) or §411.205.

(2) *12-month progress review period* means the 12-month period that begins either following the end of the initial 24-month period or following the previous 12-month progress review period. We do not count any month during which your ticket is not assigned to an EN or State VR agency, as described in §411.145.

(c) *Guidelines.* We will determine whether you are making timely progress toward self-supporting employment by using the following guidelines:

(1) During the initial 24-month period after you assign your ticket, you must be actively participating in your employment plan. “Actively participating in your employment plan” means that you are engaging in activities outlined in your employment plan on a regular

basis and in the approximate time frames specified in the employment plan. These activities may include employment, if agreed to in the employment plan. At the end of the initial 24-month period, you must successfully complete the 24-month progress review, as described in §411.195. If you worked in one or more months during the initial 24-month period at the level of work applicable to the work requirement for the first 12-month progress review period, each such month of work may be used to reduce by one month the number of months of work referred to in §411.195(a)(2) and §411.195(a)(3) for purposes of meeting the requirements of those sections regarding a goal of three months of work during the first 12-month progress review period.

(2) During your first 12-month progress review period, you must work (as defined in §411.185) for at least three of these 12 months. The three months do not need to be consecutive. If you worked one or more months during the initial 24-month period at the level of work applicable to the work requirement for the first 12-month progress review period, each such month of work may be used to reduce by one month the number of months of work required for the first 12-month progress review period.

(3) During your second 12-month progress review period, and in later 12-month progress review periods, you must work (as defined in §411.185) for at least six of these 12 months. The six months do not need to be consecutive.

§411.185 How much do I need to earn to be considered to be working?

For the purpose of determining if you are meeting the timely progress requirements for continued ticket use, we will consider you to be working in each month in which you have earnings at the following levels:

(a) For title II disability beneficiaries:

(1) During your first and second 12-month progress review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment at the SGA level for non-blind beneficiaries, as defined in §§404.1572 through 404.1576 of this chapter. For a month in which you are in a trial work period (see

§404.1592 of this chapter), or if you are statutorily blind as defined in §404.1581 of this chapter, we will consider the following as fulfilling this requirement—

(i) Gross earnings from employment, before any deductions for impairment related work expenses under §404.1576 of this chapter, that are more than the SGA threshold amount for non-blind beneficiaries in §404.1574(b)(2) of this chapter; or

(ii) Net earnings from self-employment (as defined in §416.1110(b) of this chapter), before any deductions for impairment related work expenses under §404.1576 of this chapter, that are more than the SGA threshold amount for non-blind beneficiaries in §404.1574(b)(2) of this chapter.

NOTE TO PARAGRAPH (A)(1): If you worked in one or more months during the initial 24-month period at the level of work described in paragraph (a)(1) of this section, those months of work may be used to meet certain requirements of the 24-month progress review as explained in §411.180(c)(1) and the work requirements for the first 12-month progress review period as explained in §411.180(c)(2).

(2) During your third 12-month progress review period, and during later 12-month progress review periods, we will consider you to be working in a month for which Social Security disability benefits are not payable to you because of your work or earnings.

(b) For title XVI beneficiaries:

(1) During your first and second 12-month progress review periods, we will consider you to be working in a month in which you have—

(i) Gross earnings from employment, before any SSI income exclusions, that are more than the SGA threshold amount for non-blind beneficiaries in §404.1574(b)(2) of this chapter; or

(ii) Net earnings from self-employment (as defined in §416.1110(b) of this chapter), before any SSI income exclusions, that are more than the SGA threshold amount for non-blind beneficiaries in §404.1574(b)(2) of this chapter.

Example to paragraph (b)(1): If you earn \$750 in January 2001, but exclude \$200 of this income in a Plan for Achieving Self-Support (see §§416.1180–416.1182 of this chapter), you

§411.190

20 CFR Ch. III (4–1–04 Edition)

would still be considered to be working in that month.

NOTE TO PARAGRAPH (B)(1): If you worked in one or more months during the initial 24-month period at the level of work described in paragraph (b)(1) of this section, those months of work may be used to meet certain requirements of the 24-month progress review as explained in §411.180(c)(1) and the work requirements for the first 12-month progress review period as explained in §411.180(c)(2).

(2) During your third 12-month progress review period, and during any later 12-month progress review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment that are sufficient to preclude the payment of Federal SSI cash benefits for a month.

(c) *For concurrent title II and title XVI beneficiaries:*

(1) During your first and second 12-month progress review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment at the SGA level for non-blind beneficiaries as defined in §§ 404.1572 through 404.1576 of this chapter. For a month in which you are in a trial work period (see §404.1592 of this chapter), or if you are statutorily blind as defined in §404.1581 of this chapter, we will consider the following as fulfilling this requirement—

(i) Gross earnings from employment, before any SSI income exclusions or deductions for impairment related work expenses under §404.1576 of this chapter, that are more than the SGA threshold amount for non-blind beneficiaries in §404.1574(b)(2) of this chapter; or

(ii) Net earnings from self-employment (as defined in §416.1110(b) of this chapter), before any SSI income exclusions or deductions for impairment related work expenses under §404.1576 of this chapter, that are more than the SGA threshold amount for non-blind beneficiaries in §404.1574(b)(2) of this chapter.

NOTE TO PARAGRAPH (C)(1): If you worked in one or more months during the initial 24-month period at the level of work described in paragraph (c)(1) of this section, those months of work may be used to meet certain requirements of the 24-month progress review as explained in §411.180(c)(1) and the

work requirements for the first 12-month progress review period as explained in §411.180(c)(2).

(2) During your third 12-month progress review period, and during later 12-month progress review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment sufficient to preclude the payment of Social Security disability benefits and Federal SSI cash benefits for a month.

§411.190 How is it determined if I am meeting the timely progress guidelines?

(a) *During the initial 24-month period.*

(1) *General.* During the initial 24-month period after you assign your ticket, you must be actively participating in your employment plan, as defined in §411.180(c)(1). Active participation in your employment plan will be presumed unless you or your EN or State VR agency tell the program manager (PM) that you are not actively participating. (See §411.115(k) for a definition of the PM.) If you or your EN or State VR agency report to the PM that you are temporarily unable to participate or are not actively participating in your employment plan during the initial 24-month period after you assign your ticket, the PM will give you the choice of placing your ticket in inactive status or resuming active participation in your employment plan.

(2) *Inactive status.* If you choose to place the ticket in inactive status, your ticket will be placed in inactive status beginning with the first day of the month following the month in which you make your request. You are not considered to be using a ticket during months in which your ticket is in inactive status. Therefore, you will be subject to continuing disability reviews during those months. The months in which your ticket is in inactive status do not count toward the time limitations for making timely progress toward self-supporting employment. You may not place your ticket in inactive status after the initial 24-month period.

(i) To place a ticket in inactive status, you must submit a written request to the PM asking that your ticket be placed in inactive status. The request

Social Security Administration

§411.191

must include a statement from your EN or State VR agency that you will not be participating in your plan or receiving services from them during the period of inactive status.

(ii) If your ticket is still assigned to an EN or State VR agency, you may reactivate your ticket and return to in-use status at any time by submitting a written request to the PM. Your ticket will be reactivated beginning with the first day of the month following the month in which the PM receives your request.

(3) *Resuming active participation.* If you choose to resume active participation in your employment plan, you will be allowed three months to demonstrate this active participation to the PM. During this period, you will be considered to be making timely progress toward self-supporting employment, and these months will count toward your initial 24-month period. The PM will contact your EN or State VR agency after the three months to determine whether you have been actively participating in your employment plan during these three months. If the EN or State VR agency reports that you have been actively participating in your employment plan during these three months, you will continue to be considered to be making timely progress toward self-supporting employment. If the EN or State VR agency reports that you have not been actively participating in your employment plan during these three months,

the PM will find that you are no longer making timely progress toward self-supporting employment. The PM will send a written notice of this decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. The decision will become effective 30 days after the date on which the PM sends the notice of the decision to you, unless you request that we review the decision under §411.205.

(b) *After the initial 24-month period.* (1) After the initial 24-month period, the PM will conduct progress reviews to determine if you are meeting the timely progress guidelines for continuing to be considered to be using a ticket.

(2) The PM will conduct a 24-month progress review at the end of the initial 24-month period. (See §411.195.)

(3) If you successfully complete your 24-month progress review, the PM will then conduct 12-month progress reviews at the end of each 12-month progress review period. (See §411.200.)

§411.191 Table summarizing the guidelines for timely progress toward self-supporting employment.

You may use the following table as a general guide to determine what you need to do to meet the guidelines for timely progress toward self-supporting employment. For more detail, refer to §§411.180–411.190, and §§411.195 and 411.200.

If you:	You are in this period:	You must work:	With this level of earnings:	At the end of the period we will conduct your:
(a) First assigned your ticket less than 24 months ago (not counting any months during which your ticket was unassigned or was not in use).	Initial 24-month period.	No work requirement. Must be actively participating in employment plan.	Not applicable	24-month progress review.

§ 411.195

20 CFR Ch. III (4–1–04 Edition)

If you:	You are in this period:	You must work:	With this level of earnings:	At the end of the period we will conduct your:
(b) First assigned your ticket 25 to 36 months ago, not counting certain months ¹ .	First 12-month progress review period.	3 months out of 12 ² .	Earnings at the SGA level for non-blind beneficiaries; ³ or If you are an SSI-only beneficiary, gross earnings from employment or net earnings from self-employment which, before SSI income exclusions, are more than the SGA threshold amount for non-blind beneficiaries.	First 12-month progress review.
(c) First assigned your ticket 37 to 48 months ago, not counting certain months ¹ .	Second 12-month progress review period.	6 months out of 12	Earnings at the SGA level for non-blind beneficiaries; ² or If you are an SSI-only beneficiary, gross earnings from employment or net earnings from self-employment which, before SSI income exclusions, are more than the SGA threshold amount for non-blind beneficiaries.	Second 12-month progress review.
(d) First assigned your ticket 49 to 60 months ago, not counting certain months ³ .	Third 12-month progress review period.	6 months out of 12	Earnings sufficient to preclude Social Security disability and Federal SSI cash benefits for a month.	Third 12-month progress review.

Note to table: In later 12-month progress review periods, the work and earnings requirements are the same as in the third 12-month progress review period.

¹ In counting the 24 months which make up the initial 24-month period that begins after you assign your ticket, we do not count any months during which your ticket was unassigned or was not in use (see § 411.180(b)(1)). In counting the 12 months which make up any subsequent 12-month progress review period, we do not count any months during which your ticket was unassigned (see § 411.180(b)(2)).

² If you worked in one or more months during the initial 24-month period at the level of work applicable to the work requirement for the first 12-month progress review period, each such month of work may be used to reduce by one month the number of months of work required for the first 12-month progress review period (see § 411.180(c)(2)).

³ For an explanation of how we determine if you meet this requirement if you are in a trial work period or if you are blind, see § 411.185(a)(1) or (c)(1).

§ 411.195 How will the PM conduct my 24-month progress review?

(a) In this review the PM will consider the following:

(1) Are you actively participating in your employment plan? By “actively participating in your employment plan,” we mean that you are engaging in activities outlined in your employment plan on a regular basis and in the approximate time frames specified in the plan. These activities may include

employment, if agreed to in the employment plan.

(2) Does your employment plan have a goal of at least three months of work (as defined in § 411.185) by the time of your first 12-month progress review?

(3) Given your current progress in your employment plan, can you reasonably be expected to reach this goal of at least three months of work (as defined in § 411.185) at the time of your first 12-month progress review?

Social Security Administration

§411.210

NOTE TO PARAGRAPH (A): If you worked in one or more months during the initial 24-month period at the level of work applicable to the work requirement for the first 12-month progress review period, each such month of work may be used to reduce by one month the number of months of work referred to in paragraphs (a)(2) and (3) of this section and the number of months of work required for the first 12-month progress review period (see §411.180(c)(1) and (2)).

(b) If the answer to all three of these questions is yes, the PM will find that you are making timely progress toward self-supporting employment. We will consider you to be making timely progress toward self-supporting employment until your first 12-month progress review.

(c) If the answer to any of these questions is no, the PM will find that you are not making timely progress toward self-supporting employment. The PM will send a written notice of the decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. The decision will be effective 30 days after the date on which the PM sends the notice of the decision to you, unless you request that we review the decision under §411.205.

§411.200 How will the PM conduct my 12-month progress reviews?

(a) The 12-month progress review is a two step process:

(1) *Step one—Retrospective review.* Did you complete the work requirements (as specified in §411.180 and §411.185) in the just completed 12-month progress review period?

(i) If you have not completed the work requirements, the PM will find that you are not making timely progress toward self-supporting employment.

(ii) If you have completed the work requirements, the PM will go to step two.

(2) *Step two—Anticipated work level.* Do both you and your EN or State VR agency expect that you will work at the level required during the next 12-month progress review period?

(i) If not, the PM will find that you are not making timely progress toward self-supporting employment.

(ii) If so, the PM will find that you are making timely progress toward self-supporting employment. We will consider you to be making timely progress toward self-supporting employment until your next 12-month progress review.

(b) If the PM finds that you are not making timely progress toward self-supporting employment, the PM will send a written notice of the decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. The decision will be effective 30 days after the date on which the PM sends the notice of the decision to you, unless you request that we review the decision under §411.205.

§411.205 What if I disagree with the PM's decision about whether I am making timely progress toward self-supporting employment?

If you disagree with the PM's decision, you may request that we review the decision. You must make the request before the 30th day after the date on which the PM sends the notice of its decision to you. We will consider you to be making timely progress toward self-supporting employment until we make a decision. We will send a written notice of our decision to you at your last known address. If we decide that you are no longer making timely progress toward self-supporting employment, our decision will be effective on the date on which we send the notice of the decision to you.

FAILURE TO MAKE TIMELY PROGRESS

§411.210 What happens if I do not make timely progress toward self-supporting employment?

(a) *General.* If it is determined that you are not making timely progress toward self-supporting employment, we will find that you are no longer using a ticket. If this happens, you will once again be subject to continuing disability reviews. However, you may continue participating in the Ticket to Work program. Your EN (including a State VR agency which is serving you as an EN) also may receive any milestone or outcome payments for which it is eligible under §411.500 *et seq.* If you

are working with a State VR agency which elected payment under the cost reimbursement payment system, your State VR agency may receive payment for which it is eligible under the cost reimbursement payment system (see subparts F and H of this part).

(b) *Re-entering in-use status.* If you failed to meet the timely progress guidelines for continuing to use a ticket, you may re-enter in-use status. If you believe that you meet the requirements for re-entering in-use status described in paragraph (b)(1), (b)(2), (b)(3), (b)(4) or (b)(5) of this section, you may request that you be reinstated to in-use status. You must submit a written request to the PM asking that you be reinstated to in-use status. The PM will decide whether you have satisfied the applicable requirements for re-entering in-use status. The requirements for re-entering in-use status depend on how far you progressed before you failed to meet the timely progress guidelines.

(1) *If you failed to meet the timely progress guidelines during the initial 24-month period.*

(i) If you failed to meet the timely progress guidelines during the initial 24-month period, you may re-enter in-use status by demonstrating three consecutive months of active participation in your employment plan (see §411.166(a)).

(ii) When you have satisfied this requirement, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

(iii) After you are reinstated to in-use status, your next review will be the 24-month progress review described in §411.195.

(2) *If you failed to meet the timely progress guidelines in your 24-month progress review.*

(i) If you failed to meet the timely progress guidelines in your 24-month progress review, you may re-enter in-use status by completing three months of work (as defined in §411.185(a)(1), (b)(1) or (c)(1)) within a rolling 12-month period. The rolling 12-month period must begin after the effective date of the decision that you failed to meet

the timely progress guidelines. You also must satisfy the test of §411.200(a)(2) regarding the anticipated level of your work during the 12-month progress review period that may begin under paragraph (b)(2)(iii) of this section. The work requirements for this 12-month progress review period will be the work requirements applicable during the second 12-month progress review period.

(ii) When you have satisfied these requirements, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

(iii) After you are reinstated to in-use status, the second 12-month progress review period will begin. During this 12-month progress review period, you will be required to work (as defined in §411.185(a)(1), (b)(1) or (c)(1)) at least six months. The PM will conduct a 12-month progress review at the end of this 12-month progress review period to determine if you have met this requirement. After this, the PM will conduct 12-month progress reviews in the usual manner.

(3) *If you failed to meet the timely progress guidelines in your first 12-month progress review.*

(i) If you failed to meet the timely progress guidelines in your first 12-month progress review, you may re-enter in-use status by completing three months of work (as defined in §411.185(a)(1), (b)(1) or (c)(1)) within a rolling 12-month period. The rolling 12-month period must begin after the effective date of the decision that you failed to meet the timely progress guidelines. You also must satisfy the test of §411.200(a)(2) regarding the anticipated level of your work during the next 12-month progress review period that may begin under paragraph (b)(3)(iii) of this section.

(ii) When you have satisfied these requirements, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

(iii) After you are reinstated to in-use status, your next 12-month

progress review period will begin. During this 12-month progress review period, you will be required to work (as defined in §411.185(a)(1), (b)(1) or (c)(1)) at least six months. The PM will conduct a 12-month progress review at the end of this 12-month progress review period to determine if you have met this requirement. After this, the PM will conduct 12-month progress reviews in the usual manner.

(4) *If you failed to meet the timely progress guidelines in your second 12-month progress review.*

(i) If you failed to meet the timely progress guidelines in your second 12-month progress review, you may re-enter in-use status by completing six months of work (as defined in §411.185(a)(1), (b)(1) or (c)(1)) within a rolling 12-month period. The rolling 12-month period must begin after the effective date of the decision that you failed to meet the timely progress guidelines. You also must satisfy the test of §411.200(a)(2) regarding the anticipated level of your work during the next 12-month progress review period that may begin under paragraph (b)(4)(iii) of this section.

(ii) When you have satisfied these requirements, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

(iii) After you are reinstated to in-use status, your next 12-month progress review period will begin. During this 12-month progress review period, you will be required to work (as defined in §411.185(a)(2), (b)(2) or (c)(2)) at least six months. The PM will conduct a 12-month progress review at the end of this 12-month progress review period to determine if you have met this requirement. After this, the PM will conduct 12-month progress reviews in the usual manner.

(5) *If you failed to meet the timely progress guidelines in any progress review after your second 12-month progress review.*

(i) If you failed to meet the timely progress guidelines in any progress review after your second 12-month progress review, you may re-enter in-use status by completing six months of

work within a rolling 12-month period with earnings in each of the six months at the level specified in §411.185(a)(2), (b)(2) or (c)(2). The rolling 12-month period must begin after the effective date of the decision that you failed to meet the timely progress guidelines. You also must satisfy the test in §411.200(a)(2) regarding the anticipated level of your work during the next 12-month progress review period that may begin under paragraph (b)(5)(iii) of this section.

(ii) When you have satisfied these requirements, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

(iii) After you are reinstated to in-use status, your next 12-month progress review period will begin. During this 12-month progress review period, you will be required to work at least six months with earnings at the level specified in §411.185(a)(2), (b)(2) or (c)(2). The PM will conduct a 12-month progress review at the end of this 12-month progress review period to determine if you have met this requirement. After this, the PM will conduct 12-month progress reviews in the usual manner.

(c) *Decisions on whether you have satisfied the requirements for re-entering in-use status.*

(1) After you have submitted a written request to the PM asking that you be reinstated to in-use status, the PM will decide whether you have satisfied the applicable requirements in this section for re-entering in-use status. The PM will send a written notice of the decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. If the PM decides that you have satisfied the requirements for re-entering in-use status (including the requirement that your ticket be assigned to an EN or State VR agency), you will be reinstated to in-use status effective with the date on which the PM sends the notice of the decision to you. If the PM decides that you have not satisfied the requirements for re-entering in-use status, you may request that we review

§ 411.220

20 CFR Ch. III (4–1–04 Edition)

the decision under paragraph (c)(2) of this section.

(2) If you disagree with the PM's decision, you may request that we review the decision. You must make the request before the 30th day after the date on which the PM sends the notice of its decision to you. We will send you a written notice of our decision at your last known address. If we decide that you have satisfied the requirements for re-entering in-use status (including the requirement that your ticket be assigned to an EN or State VR agency), you will be reinstated to in-use status effective with the date on which we send the notice of the decision to you.

THE EXTENSION PERIOD

§ 411.220 What if my ticket is no longer assigned to an EN or State VR agency?

(a) If your ticket was once assigned to an EN or State VR agency and is no longer assigned, you are eligible for an extension period of up to three months to reassign your ticket. You are eligible for an extension period if your ticket is in use and no longer assigned because—

(1) You retrieved your ticket because you were dissatisfied with the services being provided (see § 411.145(a)) or because you relocated to an area not served by your previous EN or State VR agency; or

(2) Your EN went out of business, is no longer approved to participate as an EN in the Ticket to Work program, or is no longer willing or able to provide you with services as described in § 411.145(b), or your State VR agency stopped providing services to you as described in § 411.145(b).

(b) During the extension period, the ticket will still be considered to be in use. This means that you will not be subject to continuing disability reviews during this period.

(c) Time spent in the extension period will not count toward the time limitations for the timely progress guidelines.

(d) The extension period—

(1) Begins on the first day on which the ticket is no longer assigned (see § 411.145); and

(2) Ends three months after it begins or when you assign your ticket to a

new EN or State VR agency, whichever is sooner.

(e) If your extension period began during the initial 24-month period, and you reassign your ticket to an EN or State VR agency (other than the EN or State VR agency to which the ticket was previously assigned), you will have a new initial 24-month period when you reassign your ticket. This initial 24-month period will begin with the first month beginning after the day on which the reassignment of your ticket is effective under § 411.150(c).

(f) If you do not assign your ticket by the end of the extension period, the ticket will no longer be in use and you will once again be subject to continuing disability reviews.

§ 411.225 What if I reassign my ticket after the end of the extension period?

(a) *General.* You may reassign your ticket after the end of the extension period under the conditions described in § 411.150. If you reassign your ticket after the end of the extension period, you will be reinstated to in-use status beginning on the day on which the reassignment of your ticket is effective under § 411.150(c).

(b) *Time limitations for the timely progress guidelines.* Any month during which your ticket is not assigned, either during or after the extension period, will not count toward the time limitations for the timely progress guidelines. See § 411.180(b)(1) and (2).

(c) *If your extension period began during the initial 24-month period.* If your extension period began during the initial 24-month period, and you reassign your ticket to an EN or State VR agency (other than the EN or State VR agency to which the ticket was previously assigned), you will have a new initial 24-month period when you reassign your ticket. This initial 24-month period will begin with the first month beginning after the day on which the reassignment of your ticket is effective under § 411.150(c).

(d) *If your extension period began during any 12-month progress review period.* If your extension period began during a 12-month progress review period and you reassign your ticket after the end of the extension period, the period

comprising the remaining months in that 12-month progress review period (see §411.180(b)(2)) will begin with the first month beginning after the day on which the reassignment of your ticket is effective under §411.150(c).

Subpart D—Use of One or More Program Managers To Assist in Administration of the Ticket to Work Program

§411.230 What is a PM?

A program manager (PM) is an organization in the private or public sector that has entered into a contract to assist us in administering the Ticket to Work program. We will use a competitive bidding process to select one or more PMs.

§411.235 What qualifications are required of a PM?

A PM must have expertise and experience in the field of vocational rehabilitation or employment services.

§411.240 What limitations are placed on a PM?

A PM is prohibited from directly participating in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries with tickets in the PM's designated service delivery area. A PM is also prohibited from holding a financial interest in an employment network (EN) or service provider that provides services under the Ticket to Work program in the PM's designated service delivery area.

§411.245 What are a PM's responsibilities under the Ticket to Work program?

A PM will assist us in administering the Ticket to Work program by conducting the following activities:

(a) *Recruiting, recommending, and monitoring ENs.* A PM must recruit and recommend for selection by us public and private entities to function as ENs under the program. A PM is also responsible for monitoring the ENs operating in its service delivery area. Such monitoring must be done to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries with

tickets. A PM may not limit the number of public or private entities being recommended to function as ENs.

(b) *Facilitating access by beneficiaries to ENs.* A PM must assist beneficiaries with tickets in accessing ENs.

(1) A PM must establish and maintain lists of the ENs available to beneficiaries with tickets in its service delivery area and make these lists generally available to the public.

(2) A PM must ensure that all information provided to beneficiaries with tickets about ENs is in accessible formats. For purposes of this section, accessible format means by media that is appropriate to a particular beneficiary's impairment(s).

(3) A PM must take necessary measures to ensure that sufficient ENs are available and that each beneficiary under the Ticket to Work program has reasonable access to employment services, vocational rehabilitation services, and other support services. The PM shall ensure that services such as the following are available in each service area, including rural areas: case management, work incentives planning, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and other services that we may require in an agreement with a PM.

(4) A PM must ensure that each beneficiary with a ticket is allowed to change ENs. When a change in the EN occurs, the PM must reassign the ticket based on the choice of the beneficiary.

(c) *Facilitating payments to ENs.* A PM must facilitate payments to the ENs in its service delivery area. Subpart H explains the EN payment systems and the PM's role in administering these systems.

(1) A PM must maintain documentation and provide regular assurances to us that payments to an EN are warranted. The PM shall ensure that an EN is complying with the terms of its agreement and applicable regulations.

(2) Upon the request of an EN, the PM shall make a determination of the allocation of the outcome or milestone payments due to an EN based on the services provided by the EN when a

§ 411.250

beneficiary has been served by more than one EN.

(d) *Administrative requirements.* A PM will perform such administrative tasks as are required to assist us in administering and implementing the Ticket to Work program. Administrative tasks required for the implementation of the Program may include, but are not limited to:

(1) Reviewing individual work plans (IWP) submitted by ENs for ticket assignment. These reviews will be conducted to ensure that the IWPs meet the requirements of § 411.465. (The PM will not review individualized plans for employment developed by State VR agencies and beneficiaries.)

(2) Reviewing amendments to IWPs to ensure that the amendments meet the requirements in § 411.465.

(3) Ensuring that ENs only refer an individual to a State VR agency for services pursuant to an agreement regarding the conditions under which such services will be provided.

(4) Resolving a dispute between an EN and a State VR agency with respect to agreements regarding the conditions under which services will be provided when an individual is referred by an EN to a State VR agency for services.

EVALUATION OF PROGRAM MANAGER PERFORMANCE

§ 411.250 How will SSA evaluate a PM?

(a) We will periodically conduct a formal evaluation of the PM. The evaluation will include, but not be limited to, an assessment examining the following areas:

- (1) Quality of services;
- (2) Cost control;
- (3) Timeliness of performance;
- (4) Business relations; and
- (5) Customer satisfaction.

(b) Our Project Officer will perform the evaluation. The PM will have an opportunity to comment on the evaluation, and then the Contracting Officer will determine the PM's final rating.

(c) These performance evaluations will be made part of our database on contractor past performance to which any Federal agency may have access.

(d) Failure to comply with the standards used in the evaluation may result

20 CFR Ch. III (4–1–04 Edition)

in early termination of our agreement with the PM.

Subpart E—Employment Networks

§ 411.300 What is an EN?

An employment network (EN) is any qualified entity that has entered into an agreement with us to function as an EN under the Ticket to Work program and assume responsibility for the coordination and delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries who have assigned their tickets to that EN.

§ 411.305 Who is eligible to be an EN?

Any qualified agency or instrumentality of a State (or political subdivision thereof) or a private entity that assumes responsibility for the coordination and delivery of services under the Ticket to Work program to disabled beneficiaries is eligible to be an EN. A single entity or an association of or consortium of entities combining their resources is eligible to be an EN. The entity may provide these services directly or by entering into an agreement with other organizations or individuals to provide the appropriate services or other assistance that a beneficiary with a ticket may need to find and maintain employment that reduces dependency on disability benefits. ENs may include, but are not limited to:

(a) Any public or private entity, including charitable and religious organizations, that can provide directly, or arrange for other organizations or entities to provide, employment services, vocational rehabilitation services, or other support services.

(b) State agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*) may choose, on a case-by-case basis, to be paid as an EN under the payment systems described in subpart H of this part. For the rules on State VR agencies' participation in the Ticket to Work program, see subpart F of this part. The rules in this subpart E apply to entities other than State VR agencies.

(c) One-stop delivery systems established under subtitle B of title I of the

Social Security Administration

§411.315

Workforce Investment Act of 1998 (29 U.S.C. 2841 *et seq.*).

(d) Alternate participants currently operating under the authority of section 222(d)(2) of the Social Security Act.

(e) Organizations administering Vocational Rehabilitation Services Projects for American Indians with Disabilities authorized under section 121 of part C of title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 750 *et seq.*).

(f) Public or private schools that provide VR or employment services, conduct job training programs, or make services or programs available that can assist students with disabilities in acquiring specific job skills that lead to employment. This includes transition programs that can help students acquire work skills.

(g) Employers that offer job training or other support services or assistance to help individuals with disabilities obtain and retain employment or arrange for individuals with disabilities to receive relevant services or assistance.

§411.310 How does an entity other than a State VR agency apply to be an EN and who will determine whether an entity qualifies as an EN?

(a) An entity other than a State VR agency applies by responding to our Request for Proposal (RFP), which we published in the Commerce Business Daily and which is available online through the Federal government's electronic posting system (<http://www.eps.gov>). This RFP also is available through SSA's website, <http://www.ssa.gov/work>. Since recruitment of ENs will be an ongoing process, the RFP is open and continuous. The entity must respond in a format prescribed in the RFP announcement. In its response, the entity must assure SSA that it is qualified to provide employment services, vocational rehabilitation services, or other support services to disabled beneficiaries, either directly or through arrangements with other entities.

(b) The PM will solicit service providers and other qualified entities to respond to the RFP on an ongoing basis. (See §411.115(k) for a definition of the PM.) The PM will conduct a pre-

liminary review of responses to the RFP from applicants located in the PM's service delivery area and make recommendations to the Commissioner regarding selection. The Commissioner will decide which applicants will be approved to serve as ENs under the program.

(c) State VR agencies must comply with the requirements in subpart F of this part to participate as an EN in the Ticket to Work program. (See §§411.360ff).

§411.315 What are the minimum qualifications necessary to be an EN?

To serve as an EN under the Ticket to Work program, an entity must meet and maintain compliance with both general selection criteria and specific selection criteria.

(a) The general criteria include:

(1) having systems in place to protect the confidentiality of personal information about beneficiaries seeking or receiving services;

(2) being accessible, both physically and programmatically, to beneficiaries seeking or receiving services (examples of being programmatically accessible include the capability of making documents and literature available in alternate media including Braille, recorded formats, enlarged print, and electronic media; and insuring that data systems available to clients are fully accessible for independent use by persons with disabilities);

(3) not discriminating in the provision of services based on a beneficiary's age, gender, race, color, creed, or national origin;

(4) having adequate resources to perform the activities required under the agreement with us or the ability to obtain them;

(5) complying with the terms and conditions in the agreement with us, including delivering or coordinating the delivery of employment services, vocational rehabilitation services, and other support services; and

(6) implementing accounting procedures and control operations necessary to carry out the Ticket to Work program.

(b) The specific criteria that an entity must meet to qualify as an EN include:

§ 411.320

20 CFR Ch. III (4–1–04 Edition)

(1)(i) Using staff who are qualified under applicable certification, licensing, or registration standards that apply to their profession including certification or accreditation by national accrediting or certifying organizations; or

(ii) Using staff that are otherwise qualified based on education or experience, such as by using staff with experience or a college degree in a field related to the services the EN wants to provide, such as vocational counseling, human relations, teaching, or psychology; and

(2) Taking reasonable steps to assure that if any medical and related health services are provided, such medical and health related services are provided under the formal supervision of persons licensed to prescribe or supervise the provision of these services in the State in which the services are performed.

(c) Any entity must have applicable certificates, licenses or other credentials if such documentation is required by State law to provide vocational rehabilitation services, employment services or other support services.

(d) We will not use the following as an EN:

(1) any entity that has had its license, accreditation, certification, or registration suspended or revoked for reasons concerning professional competence or conduct or financial integrity;

(2) any entity that has surrendered a license, accreditation, certification, or registration with a disciplinary proceeding pending; or

(3) any entity that is precluded from Federal procurement or non-procurement programs.

§ 411.320 What are an EN's responsibilities as a participant in the Ticket to Work program?

An EN must—

(a) Enter into an agreement with us.

(b) Serve a prescribed service area. The EN must designate the geographic area in which it will provide services. This will be designated in the EN's agreement with us.

(c) Provide services directly, or enter into agreements with other entities to provide employment services, vocational rehabilitation services, or other

support services to beneficiaries with tickets.

(d) Ensure that employment services, vocational rehabilitation services, and other support services provided under the Ticket to Work program are provided under appropriate individual work plans (IWP).

(e) Elect a payment system at the time of signing an agreement with us (see § 411.505).

(f) Develop and implement each IWP in partnership with each beneficiary receiving services in a manner that affords the beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal. Each IWP must meet the requirements described in § 411.465.

§ 411.321 Under what conditions will SSA terminate an agreement with an EN due to inadequate performance?

We will terminate our agreement with an EN if it does not comply with the requirements under §§ 411.320, § 411.325, or the conditions in the agreement between SSA and the EN, including minimum performance standards relating to beneficiaries achieving self-supporting employment and leaving the benefit rolls.

§ 411.325 What reporting requirements are placed on an EN as a participant in the Ticket to Work program?

An EN must:

(a) Report to the PM each time it accepts a ticket for assignment;

(b) Submit a copy of each signed IWP to the PM;

(c) Submit to the PM copies of amendments to a beneficiary's IWP;

(d) Submit to the PM a copy of any agreement the EN has established with a State VR agency regarding the conditions under which the State VR agency will provide services to beneficiaries who are referred by the EN under the Ticket to Work program;

(e) Submit information to assist the PM conducting the reviews necessary to assess a beneficiary's timely progress towards self-supporting employment to determine if a beneficiary

Social Security Administration

§411.355

is using a ticket for purposes of suspending continuing disability reviews (see subpart C of this part);

(f) Report to the PM the specific outcomes achieved with respect to specific services the EN provided or secured on behalf of beneficiaries whose tickets it accepted for assignment. Such reports shall conform to a national model prescribed by us and shall be submitted to the PM at least annually;

(g) Provide a copy of its most recent annual report on outcomes to each beneficiary considering assigning a ticket to it and assure that a copy of its most recent report is available to the public while ensuring that personal information on beneficiaries is kept confidential;

(h) Meet our financial reporting requirements. These requirements will be described in the agreements between ENs and the Commissioner, and will include submitting a financial report to the program manager on an annual basis;

(i) Collect and record such data as we shall require, in a form prescribed by us; and

(j) Adhere to all requirements specified in the agreement with the Commissioner and all regulatory requirements in this part 411.

§411.330 How will SSA evaluate an EN's performance?

(a) We will periodically review the results of the work of each EN to ensure effective quality assurance in the provision of services by ENs.

(b) In conducting such a review, we will solicit and consider the views of the individuals the EN serves and the PM which monitors the EN.

(c) ENs must make the results of these periodic reviews available to disabled beneficiaries to assist them in choosing among available ENs.

Subpart F—State Vocational Rehabilitation Agencies' Participation

PARTICIPATION IN THE TICKET TO WORK PROGRAM

§411.350 Must a State VR agency participate in the Ticket to Work program?

Yes. Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), must participate in the Ticket to Work program if it wishes to receive payments from SSA for serving disabled beneficiaries who are issued a ticket.

§411.355 What payment options does a State VR agency have under the Ticket to Work program?

(a) The Ticket to Work program provides different payment options that are available to a State VR agency for providing services to disabled beneficiaries who have a ticket. A State VR agency participates in the program in one of two ways when providing services to a particular disabled beneficiary under the program. On a case-by-case basis, subject to the limitations in §411.585, the State VR agency may participate either—

(1) As an employment network (EN); or

(2) Under the cost reimbursement payment system (see subpart V of part 404 and subpart V of part 416 of this chapter).

(b) When the State VR agency serves a beneficiary with a ticket as an EN, the State VR agency will use the EN payment system it has elected for this purpose, either the outcome payment system or the outcome-milestone payment system (described in subpart H of this part). The State VR agency will have periodic opportunities to change the payment system it uses when serving as an EN.

(c) The State VR agency may seek payment only under its elected EN

§ 411.360

payment system whenever it serves as an EN. When serving a beneficiary who was not issued a ticket, the State VR agency may seek payment only under the cost reimbursement payment system.

(d) A State VR agency can choose to function as an EN or to receive payment under the cost reimbursement payment system each time that a ticket is assigned or reassigned to it if payment has not previously been made with respect to that ticket. If payment has previously been made with respect to that ticket, the State VR agency can receive payment only under the payment system under which the earlier payment was made.

§ 411.360 How does a State VR agency become an EN?

(a) As the Ticket to Work program is implemented in States, we will notify the State VR agency by letter about payment systems available under the program. The letter will ask the State VR agency to choose a payment system to use when it functions as an EN.

(b) When serving a beneficiary holding a ticket, the State VR agency may choose, on a case-by-case basis, to seek payment under its elected EN payment system or under the cost reimbursement payment system, subject to the limitations in § 411.585.

§ 411.365 How does a State VR agency notify SSA about its choice of a payment system for use when functioning as an EN?

(a) When the State VR agency receives our letter described in § 411.360(a) regarding implementation of the Ticket to Work program, the State VR agency must respond by sending us a letter telling us which EN payment system it will use when it functions as an EN with respect to a beneficiary who has a ticket.

(b) The director of the State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), or the director's designee must sign the State VR agency's letter described in paragraph (a) of this section.

20 CFR Ch. III (4-1-04 Edition)

§ 411.370 Does a State VR agency ever have to function as an EN?

A State VR agency does not have to function as an EN when serving a beneficiary with a ticket if the ticket has not previously been assigned to an EN or State VR agency or, if it has been previously assigned, we have not made payment under an EN payment system with respect to that ticket. However, as described in § 411.585(b), a State VR agency is precluded from being paid under the cost reimbursement payment system if an EN or a State VR agency serving a beneficiary as an EN has been paid by us under one of the EN payment systems with respect to the same ticket.

§ 411.375 Does a State VR agency continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), when functioning as an EN?

Yes. The State VR agency must continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), even when functioning as an EN.

TICKET STATUS

§ 411.380 What does a State VR agency do if the State VR agency wants to determine whether a person seeking services has a ticket?

A State VR agency can contact the Program Manager (PM) to determine if a person seeking VR services has a ticket and, if so, whether the ticket may be assigned to the State VR agency (see § 411.140) or reassigned to the State VR agency (see § 411.150). (See § 411.115(k) for a definition of the PM.)

§ 411.385 What does a State VR agency do if a beneficiary who is eligible for VR services has a ticket that is available for assignment or reassignment?

(a) Once the State VR agency determines that a beneficiary is eligible for VR services, the beneficiary and a representative of the State VR agency

Social Security Administration

§411.405

must agree to and sign the individualized plan for employment (IPE) required under section 102(b) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 722(b)). This requirement must be met in order for a beneficiary to assign or reassign his or her ticket to the State VR agency. Section 411.140(d) describes the other requirements which must be met in order for a beneficiary to assign a ticket. Section 411.150(a) and (b) describe the other requirements which must be met in order for a beneficiary to reassign a ticket. Under §411.140(d)(3) and §411.150(b)(4), the State VR agency must submit the following information to the PM in order for the beneficiary's ticket to be assigned or reassigned to the State VR AGENCY:

(1) A statement that the beneficiary has decided to assign or reassign the ticket to the State VR agency and that an IPE has been agreed to and signed by both the beneficiary and a representative of the State VR agency;

(2) A statement of the vocational goal outlined in the beneficiary's IPE; and

(3) A statement of the State VR agency's selection of the payment system (either the cost reimbursement payment system or the previously elected EN payment system) under which the State VR agency will seek payment for providing services to the beneficiary.

(b) This information must be submitted to the PM in a format prescribed by us and must include the signatures of both the beneficiary, or a representative of the beneficiary, and a representative of the State VR agency.

§411.390 What does a State VR agency do if a beneficiary to whom it is already providing services has a ticket that is available for assignment?

If a beneficiary who is receiving services from the State VR agency under an existing IPE becomes eligible for a ticket that is available for assignment and decides to assign the ticket to the State VR agency, the State VR agency must submit the information required in §411.385(a)(1)-(3) and (b) to the PM. This requirement must be met in order for the beneficiary to assign his or her ticket to the State VR agency. Section

411.140(d) describes the other requirements which must be met in order for a beneficiary to assign a ticket.

§411.395 Is a State VR agency required to provide periodic reports?

(a) For cases where a State VR agency provided services functioning as an EN, the State VR agency will be required to prepare periodic reports on the specific outcomes achieved with respect to the specific services the State VR agency provided to or secured for disabled beneficiaries whose tickets it accepted for assignment. These reports must be submitted to the PM at least annually.

(b) Regardless of the payment method selected, a State VR agency must submit information to assist the PM conducting the reviews necessary to assess a beneficiary's timely progress toward self-supporting employment to determine if a beneficiary is using a ticket for purposes of suspending continuing disability reviews (see §§411.190, 411.195 and 411.200).

REFERRALS BY EMPLOYMENT NETWORKS TO STATE VR AGENCIES

§411.400 Can an EN to which a beneficiary's ticket is assigned refer the beneficiary to a State VR agency for services?

Yes. An EN may refer a beneficiary it is serving under the Ticket to Work program to a State VR agency for services. However, a referral can be made only if the State VR agency and the EN have an agreement that specifies the conditions under which services will be provided by the State VR agency. This agreement must be in writing and signed by the State VR agency and the EN prior to the EN referring any beneficiary to the State VR agency for services.

AGREEMENTS BETWEEN EMPLOYMENT NETWORKS AND STATE VR AGENCIES

§411.405 When does an agreement between an EN and the State VR agency have to be in place?

Each EN must have an agreement with the State VR agency prior to referring a beneficiary it is serving under the Ticket to Work program to the State VR agency for specific services.

§ 411.410

§ 411.410 Does each referral from an EN to a State VR agency require its own agreement?

No. The agreements between ENs and State VR agencies should be broad-based and apply to all beneficiaries who may be referred by the EN to the State VR agency for services, although an EN and a State VR agency may want to enter into an individualized agreement to meet the needs of a single beneficiary.

§ 411.415 Who will verify the establishment of agreements between ENs and State VR agencies?

The PM will verify the establishment of these agreements. Each EN is required to submit a copy of the agreement it has established with the State VR agency to the PM.

§ 411.420 What information should be included in an agreement between an EN and a State VR agency?

The agreement between an EN and a State VR agency should state the conditions under which the State VR agency will provide services to a beneficiary when the beneficiary is referred by the EN to the State VR agency for services. Examples of this information include-

- (a) Procedures for making referrals and sharing information that will assist in providing services;
- (b) A description of the financial responsibilities of each party to the agreement;
- (c) The terms and procedures under which the EN will pay the State VR agency for providing services; and
- (d) Procedures for resolving disputes under the agreement.

§ 411.425 What should a State VR agency do if it gets an attempted referral from an EN and no agreement has been established between the EN and the State VR agency?

The State VR agency should contact the EN to discuss the need to establish an agreement. If the State VR agency and the EN are not able to negotiate acceptable terms for an agreement, the State VR agency should notify the PM that an attempted referral has been made without an agreement.

20 CFR Ch. III (4-1-04 Edition)

§ 411.430 What should the PM do when it is informed that an EN has attempted to make a referral to a State VR agency without an agreement being in place?

The PM will contact the EN to explain that a referral cannot be made to the State VR agency unless an agreement has been established that sets out the conditions under which services will be provided when a beneficiary's ticket is assigned to the EN and the EN is referring the beneficiary to the State VR agency for specific services.

RESOLVING DISPUTES ARISING UNDER AGREEMENTS BETWEEN EMPLOYMENT NETWORKS AND STATE VR AGENCIES

§ 411.435 How will disputes arising under the agreements between ENs and State VR agencies be resolved?

Disputes arising under agreements between ENs and State VR agencies must be resolved using the following steps:

- (a) When procedures for resolving disputes are spelled out in the agreement between the EN and the State VR agency, those procedures must be used.
- (b) If procedures for resolving disputes are not included in the agreement between the EN and the State VR agency and procedures for resolving disputes under contracts and inter-agency agreements are provided for in State law or administrative procedures, the State procedures must be used to resolve disputes under agreements between ENs and State VR agencies.
- (c) If procedures for resolving disputes are not spelled out in the agreement or in State law or administrative procedures, the EN or the State VR agency may request that the PM recommend a resolution to the dispute.
 - (1) The request must be in writing and include:
 - (i) a copy of the agreement;
 - (ii) information on the issue(s) in dispute; and
 - (iii) information on the position of both the EN and the State VR agency regarding the dispute.
 - (2) The PM has 20 calendar days after receiving a written request to recommend a resolution to the dispute. If either the EN or the State VR agency

Social Security Administration

§411.470

does not agree with the PM's recommended resolution to the dispute, the EN or the State VR agency has 30 calendar days after receiving the PM's recommendation to request a decision by us on the matter in dispute.

Subpart G—Requirements For Individual Work Plans

§411.450 What is an Individual Work Plan?

An individual work plan (IWP) is a required written document signed by an employment network (EN) (other than a State VR agency) and a beneficiary, or a representative of a beneficiary, with a ticket. It is developed and implemented in partnership when a beneficiary and an EN have come to a mutual understanding to work together to pursue the beneficiary's employment goal under the Ticket to Work program.

§411.455 What is the purpose of an IWP?

The purpose of an IWP is to outline the specific employment services, vocational rehabilitation services and other support services that the EN and beneficiary have determined are necessary to achieve the beneficiary's stated employment goal. An IWP provides written documentation for both the EN and beneficiary. Both parties should develop and implement the IWP in partnership. The EN shall develop and implement the plan in a manner that gives the beneficiary the opportunity to exercise informed choice in selecting an employment goal. Specific services needed to achieve the designated employment goal are discussed and agreed to by both parties.

§411.460 Who is responsible for determining what information is contained in the IWP?

The beneficiary and the EN share the responsibility for determining the employment goal and the specific services needed to achieve that employment goal. The EN will present information and options in a way that affords the beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services

needed to achieve that employment goal.

§411.465 What are the minimum requirements for an IWP?

(a) An IWP must include at least—

(1) A statement of the vocational goal developed with the beneficiary, including, as appropriate, goals for earnings and job advancement;

(2) A statement of the services and supports necessary for the beneficiary to accomplish that goal;

(3) A statement of any terms and conditions related to the provision of these services and supports;

(4) A statement that the EN may not request or receive any compensation for the costs of services and supports from the beneficiary;

(5) A statement of the conditions under which an EN may amend the IWP or terminate the relationship;

(6) A statement of the beneficiary's rights under the Ticket to Work program, including the right to retrieve the ticket at any time if the beneficiary is dissatisfied with the services being provided by the EN;

(7) A statement of the remedies available to the beneficiary, including information on the availability of advocacy services and assistance in resolving disputes through the State Protection and Advocacy (P&A) System;

(8) A statement of the beneficiary's rights to privacy and confidentiality regarding personal information, including information about the beneficiary's disability;

(9) A statement of the beneficiary's right to seek to amend the IWP (the IWP can be amended if both the beneficiary and the EN agree to the change); and

(10) A statement of the beneficiary's right to have a copy of the IWP made available to the beneficiary, including in an accessible format chosen by the beneficiary.

(b) The EN will be responsible for ensuring that each IWP contains this information.

§411.470 When does an IWP become effective?

(a) An IWP becomes effective if the following requirements are met—

§ 411.500

20 CFR Ch. III (4–1–04 Edition)

(1) It has been signed by the beneficiary or the beneficiary's representative, and by a representative of the EN;

(2)(i) The beneficiary is eligible to assign his or her ticket under § 411.140(a); or

(ii) The beneficiary is eligible to reassign his or her ticket under § 411.150(a) and (b); and

(3) A representative of the EN submits a copy of the signed IWP to the PM and the PM receives the copy of the IWP.

(b) If all of the requirements in paragraph (a) of this section are met, the IWP will be effective on the first day on which the requirements of paragraphs (a)(1) and (a)(2) of this section are met.

Subpart H—Employment Network Payment Systems

§ 411.500 Definitions of terms used in this subpart.

(a) *Payment Calculation Base* means for any calendar year—

(1) In connection with a title II disability beneficiary (including a concurrent title II/title XVI disability beneficiary), the average monthly disability insurance benefit payable under section 223 of the Act for months during the preceding calendar year to all beneficiaries who are in current pay status for the month for which the benefit is payable; and

(2) In connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average monthly payment of Supplemental Security Income (SSI) benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who—

(i) Have attained age 18 but have not attained age 65;

(ii) Are not concurrent title II/title XVI beneficiaries; and

(iii) Are in current pay status for the month for which the payment is made.

(b) *Outcome Payment Period* means a period of 60 months, not necessarily consecutive, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the in-

dividual because of the performance of substantial gainful activity (SGA) or by reason of earnings from work. This period begins with the first month, ending after the date on which the ticket was first assigned, for which such benefits are not payable due to SGA or earnings. This period ends with the 60th month, consecutive or otherwise, ending after such date, for which such benefits are not payable due to SGA or earnings.

(c) *Outcome Payment System* is a system providing a schedule of payments to an employment network (EN) for each month, during an individual's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings.

(d) *Outcome Payment* means the payment for an outcome payment month.

(e) *Outcome Payment Month* means a month, during the individual's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings. The maximum number of outcome payment months for each ticket is 60.

(f) *Outcome-Milestone Payment System* is a system providing a schedule of payments to an EN that includes, in addition to any outcome payments which may be made during the individual's outcome payment period, payment for completion by a beneficiary of up to four milestones directed toward the goal of permanent employment. The milestones for which payment may be made must occur prior to the beginning of the individual's outcome payment period.

§ 411.505 How is an EN paid by SSA?

An EN can elect to be paid under either the outcome payment system or the outcome-milestone payment system. The EN will elect a payment system at the time the EN enters into an agreement with SSA. (For State VR agencies, see § 411.365.) The EN may periodically change its elected payment system as described in § 411.515.

Social Security Administration

§411.525

§411.510 How is the State VR agency paid under the Ticket to Work program?

(a) The State VR agency's payment choices are described in §411.355.

(b) The State VR agency's decision to serve the beneficiary must be communicated to the program manager (PM). (See §411.115(k) for a definition of the PM.) At the same time, the State VR agency must notify the PM of its selected payment system for that beneficiary.

(c) For each beneficiary who is already a client of the State VR agency prior to receiving a ticket, the State VR agency will notify the PM of the payment system election for each such beneficiary at the time the beneficiary decides to assign the ticket to the State VR agency.

§411.515 Can the EN change its elected payment system?

(a) Yes. Any change by an EN in its elected EN payment system will apply to beneficiaries who assign their ticket to the EN after the EN's change in election becomes effective. A change in the EN's election will become effective with the first day of the month following the month in which the EN notifies us of the change. For beneficiaries who already assigned their ticket to the EN under the EN's earlier elected payment system, the EN's earlier elected payment system will continue to apply. These rules also apply to a change by a State VR agency in its elected EN payment system for cases in which the State VR agency serves a beneficiary as an EN.

(b) After an EN (or a State VR agency) first elects an EN payment system, the EN (or State VR agency) can choose to make one change in its elected payment system at any time prior to the close of which of the following is later:

(1) The 12th month following the month in which the EN (or State VR agency) first elects an EN payment system; or

(2) The 12th month following the month in which we implement the Ticket to Work program in the State in which the EN (or State VR agency) operates.

(c) After an EN (or a State VR agency) first elects a payment system, as part of signing the EN agreement with us (for State VR agencies, see §411.365), the EN (or State VR agency) will have the opportunity to change from its existing elected payment system during times announced by us. We will offer the opportunity for each EN (and State VR agency) to make a change in its elected payment system at least every 18 months.

§411.520 How are beneficiaries whose tickets are assigned to an EN affected by a change in that EN's elected payment system?

A change in an EN's (or State VR agency's) elected payment system has no effect upon the beneficiaries who have assigned their ticket to the EN (or State VR agency).

§411.525 How are the EN payments calculated under each of the two EN payment systems?

(a) For payments for outcome payment months, both EN payment systems use the payment calculation base as defined in §411.500(a)(1) or (a)(2), as appropriate.

(1)(i) Under the outcome payment system, we can pay up to 60 monthly payments to the EN. For each month for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings, the EN is eligible for a monthly outcome payment. Payment for an outcome payment month under the outcome payment system is equal to 40 percent of the payment calculation base for the calendar year in which such month occurs, rounded to the nearest whole dollar. (See §411.550.)

(ii) If a disabled beneficiary's entitlement to Social Security disability benefits ends (see §§404.316(b), 404.337(b) and 404.352(b) of this chapter) or eligibility for SSI benefits based on disability or blindness terminates (see §416.1335 of this chapter) because of the performance of SGA or by reason of earnings from work activity, we will consider any month after the month with which such entitlement ends or eligibility terminates to be a month for which Social Security disability benefits and Federal SSI cash benefits

§ 411.530

are not payable to the individual because of work or earnings if—

(A) The individual has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) in that month that are more than the SGA threshold amount in § 404.1574(b)(2) of this chapter (or in § 404.1584(d) of this chapter for an individual who is statutorily blind); and

(B) The individual is not entitled to any monthly benefits under title II or eligible for any benefits under title XVI for that month.

(2) Under the outcome-milestone payment system, we can pay the EN for up to four milestones achieved by a beneficiary who has assigned his or her ticket to the EN. The milestones for which payment may be made must occur prior to the beginning of the beneficiary's outcome period and meet the requirements of § 411.535. In addition to the milestone payments, monthly outcome payments can be paid to the EN during the outcome payment period.

(b) The outcome-milestone payment system is designed so that the total payments to the EN for a beneficiary are less than the total amount to which payments would be limited if the EN were paid under the outcome payment system. Under the outcome-milestone payment system, the EN's total potential payment is about 85 percent of the total that would have been potentially payable under the outcome payment system for the same beneficiary.

(c) We will pay an EN to whom the individual has assigned a ticket only for milestones or outcomes achieved in months prior to the month in which the ticket terminates (see § 411.155). We will not pay a milestone or outcome payment to an EN based on an individual's work activity or earnings in or after the month in which the ticket terminates.

§ 411.530 How will the outcome payments be reduced when paid under the outcome-milestone payment system?

Under the outcome-milestone payment system, each outcome payment made to an EN with respect to an indi-

20 CFR Ch. III (4–1–04 Edition)

vidual will be reduced by an amount equal to $\frac{1}{60}$ th of the milestone payments made to the EN with respect to the same individual.

§ 411.535 What are the milestones for which an EN can be paid?

(a) Under the outcome-milestone payment system, there are four milestones for which the EN can be paid. The milestones occur after the date on which the ticket was first assigned and after the beneficiary starts to work. The milestones are based on the earnings levels that we use when we consider if work activity is SGA. We will use the SGA threshold amount in § 404.1574(b)(2) of this chapter for beneficiaries who are not statutorily blind, and we will use the SGA threshold amount in § 404.1584(d) of this chapter for beneficiaries who are statutorily blind. We will use these SGA threshold amounts in order to measure if the beneficiary's earnings level meets the milestone objective.

(1) The first milestone is met when the beneficiary has worked for one calendar month and has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) for that month that are more than the SGA threshold amount.

(2) The second milestone is met when the beneficiary has worked for three calendar months within a 12-month period and has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) for each of the three months that are more than the SGA threshold amount. The month used to meet the first milestone can be included in the three months used to meet the second milestone.

(3) The third milestone is met when the beneficiary has worked for seven calendar months within a 12-month period and has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) for each of the seven months that are more than the SGA threshold amount. Any of the months used to meet the first two milestones can be included in the seven months used to meet the third milestone.

Social Security Administration

§411.555

(4) The fourth milestone is met when the beneficiary has worked for 12 calendar months within a 15-month period and has gross earnings from employment (or net earnings from self-employment as defined in §416.1110(b) of this chapter) for each of the 12 months that are more than the SGA threshold amount. Any of the months used to meet the first three milestones can be included in the 12 months used to meet the fourth milestone.

(b) An EN can be paid for a milestone only if the milestone is attained after a beneficiary has assigned his or her ticket to the EN. See §411.575 for other milestone payment criteria.

§411.540 What are the payment amounts for each of the milestones?

(a) The payment for the first milestone is equal to 34 percent of the payment calculation base for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

(b) The payment for the second milestone is equal to 68 percent of the payment calculation base for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

(c) The payment for the third milestone is equal to 136 percent of the payment calculation base for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

(d) The payment for the fourth milestone is equal to 170 percent of the payment calculation base for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

(e) The month of attainment of the first milestone is the first month in which the individual has the required earnings as described in §411.535.

(f) The month of attainment of the second milestone is the 3rd month, within a 12-month period, in which the individual has the required earnings as described in §411.535.

(g) The month of attainment of the third milestone is the 7th month, within a 12-month period, in which the individual has the required earnings as described in §411.535.

(h) The month of attainment of the fourth milestone is the 12th month, within a 15-month period, in which the individual has the required earnings as described in §411.535.

§411.545 What are the payment amounts for outcome payment months under the outcome-milestone payment system?

The amount of each monthly outcome payment under the outcome-milestone payment system is equal to 34 percent of the payment calculation base for the calendar year in which the month occurs, rounded to the nearest whole dollar, and reduced, if necessary, as described in §411.530.

§411.550 What are the payment amounts for outcome payment months under the outcome payment system?

Under the outcome payment system, the payment for an outcome payment month is equal to 40 percent of the payment calculation base for the calendar year in which the month occurs, rounded to the nearest whole dollar.

§411.555 Can the EN keep the milestone and outcome payments even if the beneficiary does not achieve all 60 outcome months?

(a) Yes. The EN can keep each milestone and outcome payment for which the EN is eligible, even though the beneficiary does not achieve all 60 outcome months.

(b) Payments which we make or deny to an EN or State VR agency serving a beneficiary as an EN may be subject to adjustment (including recovery, as appropriate) if we determine that more or less than the correct amount was paid. This may happen, for example, because we determine that the payment determination was in error or because of—

(1) An allocation of a payment under §411.560; or

(2) A determination or decision we make about an individual's right to benefits which causes the payment or denial of a payment to be incorrect (see §411.590(d)).

(c) If we determine that an overpayment or underpayment has occurred, we will notify the EN or State VR agency serving a beneficiary as an EN of the adjustment. Any dispute which

§ 411.560

20 CFR Ch. III (4–1–04 Edition)

the EN or State VR agency has regarding the adjustment may be resolved under the rules in § 411.590(a) and (b).

§ 411.560 Is it possible to pay a milestone or outcome payment to more than one EN?

Yes. It is possible for more than one EN to receive payment based on the same milestone or outcome. If the beneficiary has assigned the ticket to more than one EN at different times, and more than one EN requests payment for the same milestone or outcome payment under its elected payment system, the PM will make a determination of the allocation of payment to each EN. The PM will make this determination based upon the contribution of the services provided by each EN toward the achievement of the outcomes or milestones. Outcome and milestone payments will not be increased because the payments are shared between two or more ENs.

§ 411.565 What happens if two or more ENs qualify for payment on the same ticket but have elected different EN payment systems?

We will pay each EN according to its elected EN payment system in effect at the time the beneficiary assigned the ticket to the EN.

§ 411.570 Can an EN request payment from the beneficiary who assigned a ticket to the EN?

No. Section 1148(b)(4) of the Act prohibits an EN from requesting or receiving compensation from the beneficiary for the services of the EN.

§ 411.575 How does the EN request payment for milestones or outcome payment months achieved by a beneficiary who assigned a ticket to the EN?

The EN will send its request for payment, evidence of the beneficiary's work or earnings and other information to the PM.

(a) *Milestone payments.* (1) We will pay the EN for milestones only if—

(i) The outcome-milestone payment system was the EN's elected payment system in effect at the time the beneficiary assigned a ticket to the EN;

(ii) The milestones occur prior to the outcome payment period (see § 411.500(b));

(iii) The requirements in § 411.535 are met; and

(iv) The ticket has not terminated for any of the reasons listed in § 411.155.

(2) The EN must request payment for each milestone achieved by a beneficiary who has assigned a ticket to the EN. The request must include evidence that the milestone was achieved, and other information as we may require, to evaluate the EN's request. We do not have to stop monthly benefit payments to the beneficiary before we can pay the EN for milestones achieved by the beneficiary.

(b) *Outcome payments.* (1) We will pay an EN an outcome payment for a month if—

(i)(A) Social Security disability benefits and Federal SSI cash benefits are not payable to the individual for that month due to work or earnings; or

(B) The requirements of § 411.525(a)(1)(ii) are met in a case where the beneficiary's entitlement to Social Security disability benefits has ended or eligibility for SSI benefits based on disability or blindness has terminated because of work activity or earnings; and

(ii) We have not already paid for 60 outcome payment months on the same ticket; and

(iii) The ticket has not terminated for any of the other reasons listed in § 411.155.

(2) The EN must request payment for outcome payment months on at least a quarterly basis. Along with the request, the EN must submit evidence of the beneficiary's work or earnings (e.g. a statement of monthly earnings from the employer or the employer's designated payroll preparer, an unaltered copy of the beneficiary's pay stub). *Exception:* If the EN does not currently hold the ticket because it is unassigned or assigned to another EN, the EN must request payment, but is not required to submit evidence of the beneficiary's work or earnings.

Social Security Administration

§411.595

§411.580 Can an EN receive payments for milestones or outcome payment months that occur before the beneficiary assigns a ticket to the EN?

No. An EN may be paid only for milestones or outcome payment months that are achieved after the ticket is assigned to the EN.

§411.585 Can a State VR agency and an EN both receive payment for serving the same beneficiary?

Yes. It is possible if the State VR agency serves the beneficiary as an EN. In this case, both the State VR agency serving as an EN and the other EN may be eligible for payment based on the same ticket (see §411.560).

(a) If a State VR agency is paid by us under the cost reimbursement payment system with respect to a ticket, such payment precludes any subsequent payment by us based on the same ticket to an EN or to a State VR agency serving as an EN under either the outcome payment system or the outcome-milestone payment system.

(b) If an EN or a State VR agency serving a beneficiary as an EN is paid by us under one of the EN payment systems with respect to a ticket, such payment precludes subsequent payment to a State VR agency under the cost reimbursement payment system based on the same ticket.

§411.587 Which provider will SSA pay if, with respect to the same ticket, SSA receives a request for payment from an EN or a State VR agency that elected payment under an EN payment system and a request for payment from a State VR agency that elected payment under the cost reimbursement payment system?

(a) We will pay the provider that first meets the requirements for payment under its elected payment system applicable to the beneficiary who assigned the ticket.

(b) In the event that both providers first meet the requirements for payment under their respective payment systems in the same month, we will pay the claim of the provider to which the beneficiary's ticket is currently assigned or, if the ticket is not currently assigned to either provider, the claim of the provider to which the ticket was most recently assigned.

§411.590 What can an EN do if the EN disagrees with our decision on a payment request?

(a) If an EN other than a State VR agency has a payment dispute with us, the dispute shall be resolved under the dispute resolution procedures contained in the EN's agreement with us.

(b) If a State VR agency serving a beneficiary as an EN has a dispute with us regarding payment under an EN payment system, the State VR agency may, within 60 days of receiving notice of our decision, request reconsideration in writing. The State VR agency must send the request for reconsideration to the PM. The PM will forward to us the request for reconsideration and a recommendation. We will notify the State VR agency of our reconsidered decision in writing.

(c) An EN (including a State VR agency) cannot appeal determinations we make about an individual's right to benefits (e.g. determinations that disability benefits should be suspended, terminated, continued, denied, or stopped or started on a different date than alleged). Only the beneficiary or applicant or his or her representative can appeal these determinations. See §404.900 *et seq.* and 416.1400 *et seq.* of this chapter.

(d) Determinations or decisions which we make about an individual's right to benefits may affect an EN's eligibility for payment, and may cause payments which we have already made to an EN (or a denial of a payment to an EN) to be incorrect, resulting in an overpayment or underpayment to the EN. If this happens, we will make any necessary adjustments to the payments (see §411.555). While an EN cannot appeal our determination about an individual's right to benefits, the EN may furnish any evidence the EN has which relates to the issue(s) to be decided on appeal if the individual appeals our determination.

§411.595 What oversight procedures are planned for the EN payment systems?

We use audits, reviews, studies and observation of daily activities to identify areas for improvement. Internal

reviews of our systems security controls are regularly performed. These reviews provide an overall assurance that our business processes are functioning as intended. The reviews also ensure that our management controls and financial management systems comply with the standards established by the Federal Managers' Financial Integrity Act and the Federal Financial Management Improvement Act. These reviews operate in accordance with the Office of Management and Budget Circulars A-123, A-127 and Appendix III to A-130. Additionally, our Executive Internal Control Committee meets periodically and provides further oversight of program and management control issues.

§411.597 Will SSA periodically review the outcome payment system and the outcome-milestone payment system for possible modifications?

(a) Yes. We will periodically review the system of payments and their programmatic results to determine if they provide an adequate incentive for ENs to assist beneficiaries to enter the work force, while providing for appropriate economies.

(b) We will specifically review the limitation on monthly outcome payments as a percentage of the payment calculation base, the difference in total payments between the outcome-milestone payment system and the outcome payment system, the length of the outcome payment period, and the number and amount of milestone payments, as well as the benefit savings and numbers of beneficiaries going to work. We will consider altering the payment system conditions based upon the information gathered and our determination that an alteration would better provide for the incentives and economies noted above.

**Subpart I—Ticket to Work Program
Dispute Resolution**

**DISPUTES BETWEEN BENEFICIARIES AND
EMPLOYMENT NETWORKS**

§411.600 Is there a process for resolving disputes between beneficiaries and ENs that are not State VR agencies?

Yes. After an IWP is signed, a process is available which will assure each

party a full, fair and timely review of a disputed matter. This process has three steps.

(a) The beneficiary can seek a solution through the EN's internal grievance procedures.

(b) If the EN's internal grievance procedures do not result in an agreeable solution, either the beneficiary or the EN may seek a resolution from the PM. (See §411.115(k) for a definition of the PM.)

(c) If either the beneficiary or the EN is dissatisfied with the resolution proposed by the PM, either party may request a decision from us.

§411.605 What are the responsibilities of the EN that is not a State VR agency regarding the dispute resolution process?

The EN must:

(a) Have grievance procedures that a beneficiary can use to seek a resolution to a dispute under the Ticket to Work program;

(b) Give each beneficiary seeking services a copy of its internal grievance procedures;

(c) Inform each beneficiary seeking services of the right to refer a dispute first to the PM for review, and then to us for a decision; and

(d) Inform each beneficiary of the availability of assistance from the State P&A system.

§411.610 When should a beneficiary receive information on the procedures for resolving disputes?

Each EN that is not a State VR agency must inform each beneficiary seeking services under the Ticket to Work program of the procedures for resolving disputes when—

(a) The EN and the beneficiary complete and sign the IWP;

(b) Services in the beneficiary's IWP are reduced, suspended or terminated; and

(c) A dispute arises related to the services spelled out in the beneficiary's IWP or to the beneficiary's participation in the program.

§411.615 How will a disputed issue be referred to the PM?

The beneficiary or the EN that is not a State VR agency may ask the PM to review a disputed issue. The PM will

Social Security Administration

§411.650

contact the EN to submit all relevant information within 10 working days. The information should include:

- (a) A description of the disputed issue(s);
- (b) A summary of the beneficiary's position, prepared by the beneficiary or a representative of the beneficiary, related to each disputed issue;
- (c) A summary of the EN's position related to each disputed issue; and
- (d) A description of any solutions proposed by the EN when the beneficiary sought resolution through the EN's grievance procedures, including the reasons the beneficiary rejected each proposed solution.

§411.620 How long does the PM have to recommend a resolution to the dispute?

The PM has 20 working days to provide a written recommendation. The recommendation should explain the reasoning for the proposed resolution.

§411.625 Can the beneficiary or the EN that is not a State VR agency request a review of the PM's recommendation?

(a) Yes. After receiving the PM's recommendation, either the beneficiary or the EN may request a review by us. The request must be in writing and received by the PM within 15 working days of the receipt of the PM's recommendation for resolving the dispute.

(b) The PM has 10 working days to refer the request for a review to us. The request for a review must include:

- (1) A copy of the beneficiary's IWP;
- (2) Information and evidence related to the disputed issue(s); and
- (3) The PM's conclusion(s) and recommendation(s).

§411.630 Is SSA's decision final?

Yes. Our decision is final. If either the beneficiary or the EN that is not a State VR agency is unwilling to accept our decision, either has the right to terminate its relationship with the other.

§411.635 Can a beneficiary be represented in the dispute resolution process under the Ticket to Work program?

Yes. Both the beneficiary and the EN that is not a State VR agency may use

an attorney or other individual of their choice to represent them at any step in the dispute resolution process. The P&A system in each State and U.S. Territory is available to provide assistance and advocacy services to beneficiaries seeking or receiving services under the Ticket to Work program, including assistance in resolving issues at any stage in the dispute resolution process.

DISPUTES BETWEEN BENEFICIARIES AND STATE VR AGENCIES

§411.640 Do the dispute resolution procedures of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), apply to beneficiaries seeking services from the State VR agency?

Yes. The procedures in the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*) apply to any beneficiary who has assigned a ticket to a State VR agency. ENs that are State VR agencies are subject to the provisions of the Rehabilitation Act. The Rehabilitation Act requires the State VR agency to provide each person seeking or receiving services with a description of the services available through the Client Assistance Program authorized under section 112 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 732). It also provides the opportunity to resolve disputes using formal mediation services or the impartial hearing process in section 102(c) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 722(c)). ENs that are not State VR agencies are not subject to the provisions of Title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*).

DISPUTES BETWEEN EMPLOYMENT NETWORKS AND PROGRAM MANAGERS

§411.650 Is there a process for resolving disputes between ENs that are not State VR agencies and PMs, other than disputes on a payment request?

Yes. Under the agreement to assist us in administering the Ticket to Work program, a PM is required to have procedures to resolve disputes with ENs that do not involve an EN's payment request. (See §411.590 for the process

§ 411.655

for resolving disputes on EN payment requests.) This process must ensure that:

(a) The EN can seek a solution through the PM's internal grievance procedures; and

(b) If the PM's internal grievance procedures do not result in a mutually agreeable solution, the PM shall refer the dispute to us for a decision.

§ 411.655 How will the PM refer the dispute to us?

The PM has 20 working days from the failure to come to a mutually agreeable solution with an EN to refer the dispute to us with all relevant information. The information should include:

(a) A description of the disputed issue(s);

(b) A summary of the EN's and PM's position related to each disputed issue; and

(c) A description of any solutions proposed by the EN and PM when the EN sought resolution through the PM's grievance procedures, including the reasons each party rejected each proposed solution.

§ 411.660 Is SSA's decision final?

Yes. Our decision is final.

Subpart J—The Ticket to Work Program and Alternate Participants Under the Programs For Payments For Vocational Rehabilitation Services

§ 411.700 What is an alternate participant?

An alternate participant is any public or private agency (other than a participating State VR agency described in §§ 404.2104 and 416.2204 of this chapter), organization, institution, or individual with whom the Commissioner has entered into an agreement or contract to provide VR services to disabled beneficiaries under the programs described in subpart V of part 404 and subpart V of part 416 of this chapter. In this subpart J, we refer to these programs as the programs for payments for VR services.

20 CFR Ch. III (4–1–04 Edition)

§ 411.705 Can an alternate participant become an EN?

In any State where the Ticket to Work program is implemented, each alternate participant whose service area is in that State will be asked to choose if it wants to participate in the program as an EN.

§ 411.710 How will an alternate participant choose to participate as an EN in the Ticket to Work program?

(a) When the Ticket to Work program is implemented in a State, each alternate participant whose service area is in that State will be notified of its right to choose to participate as an EN in the program in that State. The notification to the alternate participant will provide instructions on how to become an EN and the requirements that an EN must meet to participate in the Ticket to Work program.

(b) An alternate participant who chooses to become an EN must meet the requirements to be an EN, including—

(1) Enter into an agreement with SSA to participate as an EN under the Ticket to Work program (see § 411.320);

(2) Agree to serve a prescribed service area (see § 411.320);

(3) Agree to the EN reporting requirements (see § 411.325); and

(4) Elect a payment option under one of the two EN payment systems (see § 411.505).

§ 411.715 If an alternate participant becomes an EN, will beneficiaries for whom an employment plan was signed prior to implementation be covered under the Ticket to Work program payment provisions?

No. When an alternate participant becomes an EN in a State in which the Ticket to Work program is implemented, those beneficiaries for whom an employment plan was signed prior to the date of implementation of the program in the State, will continue to be covered for a limited time under the programs for payments for VR services (see § 411.730).

§ 411.720 If an alternate participant chooses not to become an EN, can it continue to function under the programs for payments for VR services?

Once the Ticket to Work program has been implemented in a State, the alternate participant programs for payments for VR services begin to be phased-out in that State. We will not pay any alternate participant under these programs for any services that are provided under an employment plan that is signed on or after the date of implementation of the Ticket to Work program in that State. If an employment plan was signed before that date, we will pay the alternate participant, under the programs for payments for VR services, for services provided prior to January 1, 2004 if all other requirements for payment under these programs are met. We will not pay an alternate participant under these programs for any services provided on or after January 1, 2004.

§ 411.725 If an alternate participant becomes an EN and it has signed employment plans, both as an alternate participant and an EN, how will SSA pay for services provided under each employment plan?

We will continue to abide by the programs for payments for VR services in cases where services are provided to a beneficiary under an employment plan signed prior to the date of implementation of the Ticket to Work program in the State. However, we will not pay an alternate participant under these programs for services provided on or after January 1, 2004. For those employment plans signed by a beneficiary and the EN after implementation of the program in the State, the EN's elected EN payment system under the Ticket to Work program applies.

§ 411.730 What happens if an alternate participant signed an employment plan with a beneficiary before Ticket to Work program implementation in the State and the required period of substantial gainful activity is not completed by January 1, 2004?

The beneficiary does not have to complete the nine-month continuous period of substantial gainful activity

(SGA) prior to January 1, 2004, in order for the costs of the services to be payable under the programs for payments for VR services. The nine-month SGA period can be completed after January 1, 2004. However, SSA will not pay an alternate participant under these programs for the costs of any services provided after December 31, 2003.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart A—Introduction, General Provisions and Definitions

Sec.

- 416.101 Introduction.
- 416.105 Administration.
- 416.110 Purpose of program.
- 416.120 General definitions and use of terms.
- 416.121 Receipt of aid or assistance for December 1973 under an approved State plan under title I, X, XIV, or XVI of the Social Security Act.

Subpart B—Eligibility

GENERAL

- 416.200 Introduction.
- 416.201 General definitions and terms used in this subpart.
- 416.202 Who may get SSI benefits.
- 416.203 Initial determinations of SSI eligibility.
- 416.204 Redeterminations of SSI eligibility.

REASONS WHY YOU MAY NOT GET SSI BENEFITS FOR WHICH YOU ARE OTHERWISE ELIGIBLE

- 416.207 You do not give us permission to contact financial institutions.
- 416.210 You do not apply for other benefits.
- 416.211 You are a resident of a public institution.
- 416.212 Continuation of full benefits in certain cases of medical confinement.
- 416.214 You are disabled and drug addiction or alcoholism is a contributing factor material to the determination of disability.
- 416.215 You leave the United States.
- 416.216 You are a child of armed forces personnel living overseas.

ELIGIBILITY FOR INCREASED BENEFITS BECAUSE OF ESSENTIAL PERSONS

- 416.220 General.
- 416.221 Who is a qualified individual.
- 416.222 Who is an essential person.
- 416.223 What happens if you are a qualified individual.